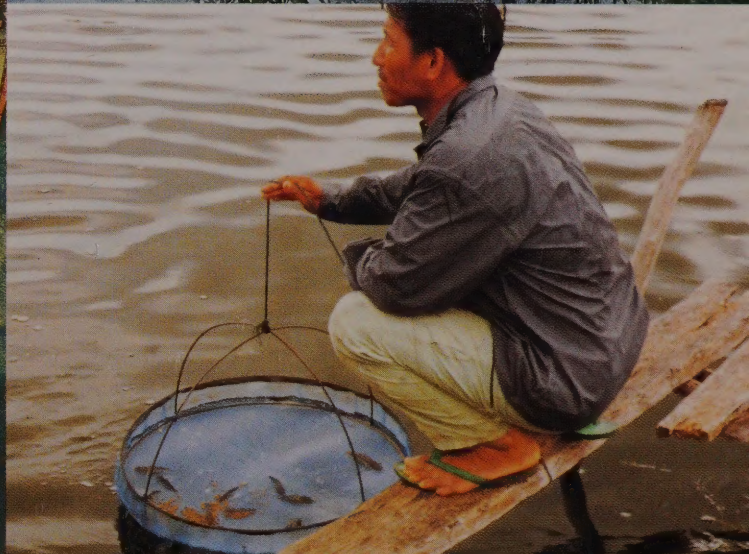




World Trade and the Environment



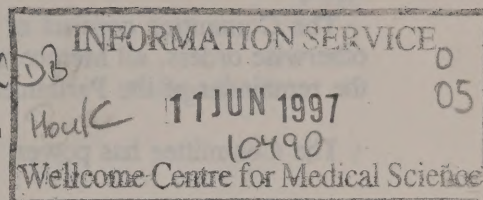
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8			3
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1. Is CITES succeeding in its aim of regulating trade in endangered species?
2. South East Asia's mangrove swamps are under threat from economic pressures.
3. Prawn farming sustains poor Thai families, but what about the environment?
4. Feeding the Western appetite for year-round exotic fruit and vegetables.
5. Added value is important to emerging economies such as Malaysia.
6. Containerised trade poses problems of inspection and enforcement.
7. Who stands to gain most from intellectual property rights?
8. The Forest Stewardship Council logo—but will the timber traders buy it?
9. Controlling the environment: producing CFC-free goods for export.
10. Trade in hazardous waste: a symbol of the past?
11. Walk in the woods—tropical rainforests are of concern to us all.

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**ENVIRONMENT
COMMITTEE**



Fourth Report

WORLD TRADE AND THE ENVIRONMENT

Volume I

Report together with Proceedings of the Committee

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The Environment Committee is appointed under Standing Order No. 130 to examine the expenditure, administration and policy of the Department of the Environment and associated public bodies.

The Committee consists of 11 Members. It has a quorum of three. Unless the House otherwise orders, all Members nominated to the Committee continue to be members of it for the remainder of the Parliament.

The Committee has power:

- (a) to send for persons, papers and records, to sit notwithstanding any adjournment of the House, to adjourn from place to place, and to report from time to time;
- (b) to appoint specialist advisers either to supply information which is not readily available or to elucidate matters of complexity within the Committee's order of reference;
- (c) to communicate to any other such committee and to the Committee of Public Accounts and to the Deregulation Committee their evidence and any other documents relating to matters of common interest; and
- (d) to meet concurrently with any other such committee for the purposes of deliberating, taking evidence, or considering draft reports.

The membership of the Committee since its nomination on 13 July 1992 has been as follows:

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Mr Peter Ainsworth
(appointed 1.3.93,
discharged 28.11.94) -

Mr Robert Ainsworth
(appointed 13.12.93,
discharged 13.6.95)

Mr Kevin Barron
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discharged 13.12.93)

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TABLE OF CONTENTS

	<i>Page</i>
REPORT	v
	<i>Paragraph</i>
PREFACE	v
SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS	vii
SECTION 1: INTRODUCTION	x
Historical Background	10 x
The Relationship between Trade Liberalisation and Environmental Protection	21 xii
How can trade benefit the environment?	22 xii
How can trade liberalisation damage the environment?	27 xiv
How can efforts to protect the environment restrict trade?	38 xvii
Trade restrictions allowed under WTO rules	46 xx
Purpose of the Inquiry	53 xxi
SECTION 2: THE INSTITUTIONAL FRAMEWORK	xxii
The World Trade Organisation (WTO)	56 xxii
Negotiations in the WTO	57 xxii
Dispute settlement	60 xxiii
Enhancing the "rule of law" in the WTO	62 xxiii
The WTO and the environment	65 xxiv
Transparency of the WTO	70 xxv
Organisations with Responsibility Towards the Global Environment	76 xxvi
The UN Environment Programme (UNEP)	78 xxvi
UN Conference on Trade and Development (UNCTAD)	79 xxvii
UN Commission on Sustainable Development (UNCSD)	80 xxvii
OECD	81 xxvii
Co-ordination between environmental agencies	83 xxviii
Policy Making at National and European Level	84 xxviii
Preparing for Singapore	90 xxix
SECTION 3: TRADE AND SUSTAINABLE DEVELOPMENT	92 xxx
Trade Barriers as a Hindrance to Sustainable Development	93 xxx
Agricultural subsidies	95 xxx
Tariff escalation	98 xxxi
Positive initiatives	100 xxxi
The Economic Consequences of Trade Liberalisation	101 xxxii
Forced to trade?	103 xxxii
Trade Liberalisation and Agriculture	105 xxxiii
Loss of food security	107 xxxiii
Beneficial effects of trade liberalisation on agriculture	110 xxxiv
The Impact of Trade Liberalisation on Industrial Development	114 xxxvi
Multinational companies	115 xxxvi
Local industries	120 xxxviii
Trade Liberalisation and Infrastructure Development	124 xxxix
Transport projects	124 xxxix
General effects of economic growth	125 xxxix
How Can Environmental Costs be Internalised in Developing Countries?	128 xl
Trade-based means of cost internalisation	133 xli
Minimum environmental standards	141 xlii
The need for resource transfer	144 xliii
The Need for Policy Integration	149 xliv

SECTION 4: RECONCILING THE TRADE AND ENVIRONMENTAL REGIMES			
Are Trade Restrictions Needed to Protect the Environment?	155	xlvi	
Multilateral Environmental Agreements (MEAs)	159	xlvi	
The Montreal Protocol	162	xlvi	
The Basel Convention	164	xlviii	
CITES	168	xlix	
MEAs and the WTO Rules	170	l	
Amending Article XX of GATT	174	l	
The TRIPs Agreement and the Biodiversity Convention	179	li	
Unilateral Trade Measures Based On Processes and Production Methods	188	liii	
"Psychological damage" and animal welfare	193	liv	
National Environmental Policies and Standards Which Affect Trade	201	lvi	
Recycled content requirements	206	lvii	
Ecolabelling	207	lvii	
Forest certification and timber labelling	209	lvii	
The scope for voluntary initiatives	221	lxii	
Environmental Standards and Competitiveness	233	lxiv	
Border tax adjustment	235	lxv	
Harmonisation of standards	237	lxvi	
	243	lxvii	
SECTION 5: PROPOSALS FOR INSTITUTIONAL REFORM			
Criticisms of the WTO Committee on Trade and Environment	249	lxix	
The International Environmental Regime	250	lxix	
A Global Environment Organisation?	256	lxx	
Alternative proposals for reform	257	lxx	
A stronger UNEP?	261	lxxi	
An international expert panel?	262	lxxi	
The final authority	264	lxxii	
Looking to the Future	269	lxxiii	
	271	lxxiii	
<i>Bibliography</i>			lxxv
ANNEXES			
ANNEX I: Note on visit to Singapore, Malaysia and Thailand			lxxviii
ANNEX II: Note on visit to B&Q and the UK Ecolabelling Board			lxxviii
ANNEX III: Note on visit to the CITES Team and Quarantine Station, Heathrow Airport			xcviii
ANNEX IV: Notes of Conference on Trade and the Environment:			
Challenges for 1996			civ
ANNEX V: Survey on suggested amendments to Article XX of GATT			cviii
ANNEX VI: Summary of mimeograph by Stephen Woolcock on Trade and Ecolabelling			cxviii
ANNEX VII: List of Case Studies			cxviii
PROCEEDINGS OF THE COMMITTEE RELATING TO THE REPORT			
LIST OF WITNESSES			cxxvii
LIST OF MEMORANDA INCLUDED IN THE MINUTES OF EVIDENCE			cxxxi
LIST OF APPENDICES TO THE MINUTES OF EVIDENCE			cxxxiii
LIST OF PAPERS REPORTED TO THE HOUSE AND NOT PRINTED BUT DEPOSITED IN THE LIBRARY OF THE HOUSE AND THE RECORD OFFICE OF THE HOUSE OF LORDS			cxxxiv
			cxxxv

FOURTH REPORT

WORLD TRADE AND THE ENVIRONMENT

The Environment Committee has agreed to the following Report:

PREFACE

1. Trade has always been important to us as an island nation. Tudor navigators and great trading companies such as the Hudson Bay Company and the East India Company brought a steadily-expanding range of goods back to our shores. Not surprisingly, trade policy was often at the heart of political controversy: the arguments over the corn laws, imperial preference and free trade, for example, not only divided the parties from each other but spawned internecine strife within the parties themselves.

2. There was, however, no dispute about Britain's decision to join the General Agreement on Tariffs and Trade (GATT) in 1947. It was unanimously seen as part of a new world order which included the United Nations, the World Bank, the International Monetary Fund, the World Health Organisation and the International Labour Organisation. Some, at least, believed that the International Labour Organisation would lead to higher wages and improved conditions of service; most thought that GATT would increase world trade and prosperity, and also help to provide the resources for the World Health Organisation to improve environmental health worldwide.

3. Although the International Labour Organisation had made very little progress on wages and conditions of employment worldwide, by 1990 GATT had considerable success in freeing up trade in most areas. (Agricultural products from the temperate zone are one exception, however.) There was also an international will to transform GATT into the World Trade Organisation and to reduce trade barriers yet further. Although the Uruguay Round took a very long time, the process was finished by 1994. Increasingly, however, the world was recognising that trade is not an end in itself, but is of value insofar as it contributes to sustainable development. It became apparent that not all trade was necessarily good and that there was a price to pay in terms of environmental damage. Trade agreements with environmental objectives therefore began to emerge: the Montreal Protocol, designed first to restrict, then ban, the trade in ozone depleting substances; the Convention to regulate and restrict the trade in endangered species (CITES); and the Basel Convention which stops the export of hazardous waste to developing countries.

4. In many countries, however, including the United Kingdom, pressure to improve environmental standards was often countered by claims that controls would damage trade. The first line of argument was that manufacture would simply be transferred elsewhere (to a developing country, for example) with a consequent loss of jobs at home. The second line of argument was that, if trade was thus transferred, even lower environmental standards would apply and the all-round effect would therefore be a worsening of, not an improvement in, the global situation. The end-result might therefore be the loss of jobs at home but no overall environmental benefit worldwide.

5. These arguments were raised time and time again during the Environment Committee's Inquiries during the 1980s. They were also pressed on us in this Parliament when we looked at Recycling, Volatile Organic Compounds and Secondary Liquid Fuel, and when we discussed the Government's core environmental document, *This Common Inheritance*, and its annual update.

6. So, in the Autumn of 1995, we decided to explore three questions: how far the objectives of the new World Trade Organisation are compatible with the sustainability objective set out by the Rio summit; whether setting high environmental standards would harm or help industry; and whether strict environmental controls in the developed world might make

third-world countries more vulnerable to pollution. Our terms of reference were to:

- examine the interrelationships and conflicts between the liberalisation of trade and the protection of the national and global environment
- review the roles and achievements to date of international organisations, and in particular the World Trade Organisation, in integrating trade and environmental objectives
- determine the circumstances under which trade restrictions are an appropriate means of achieving environmental goals, and those circumstances under which alternative strategies might be more appropriate
- review the effectiveness of existing Multilateral Environmental Agreements and their compatibility with WTO rules
- investigate the impact of international trade and environmental agreements on the ability of Third World countries to develop an environmentally sustainable economy
- review current United Kingdom involvement in negotiating international trade and environmental agreements, identifying ways in which the Government can contribute most effectively while protecting United Kingdom interests.

7. In pursuing this enquiry, we received written evidence from over 50 organisations and heard oral evidence from seventeen witnesses. We also paid several visits. We went to B&Q in Wandsworth to look at their policy regarding the purchase of forestry products; and to Heathrow to see how HM Customs and Excise control the importation of flora and fauna, both live and processed, so that it conforms to the CITES convention. We also had the opportunity to canvass the view of the European Commission during a visit to Brussels in the Autumn of 1995; the Chairman participated in the Global Environment and Trade Study Conference in New York in January 1996; and we travelled to Singapore, Malaysia and Thailand for an international perspective in the Spring of 1996. We very much appreciate the help we received from everybody concerned with these visits.

8. We are also very grateful to all who contributed to our work, particularly to those who travelled long distances to appear as witnesses. We must also express our thanks for the help we received from our specialist advisers, James Cameron and Steve Woolcock.

9. Finally, we must note that we were very aware of the impact international policy options have on ordinary people's working lives. We have therefore decided to intersperse a number of case studies throughout our report in order to feature extracts from the evidence designed to illustrate the day-to-day impact of the policy issues we discuss.

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

We recommend that the Government press those international organisations concerned with the environment and sustainable development to increase their provision of financial and technical assistance to developing countries who at present do not have sufficient resources to participate in WTO negotiations on trade and the environment. We also urge the United Kingdom Government to bear this factor in mind when considering its future contributions to these international organisations. [para 64]

We consider that the WTO has not taken full advantage of the expertise of non-governmental organisations in its deliberations on trade and environment, and suggest that non-governmental organisations with a *bona fide* interest in trade and environment issues be allowed to attend meetings of the Committee on Trade and Environment as observers. [para 75]

Whilst recognising the significant effort made by the Government to integrate environmental concerns into every area of policy, we remain concerned at reports that United Kingdom delegations to international fora on trade and environment matters are failing to reflect fully the environmental policy objectives of Her Majesty's Government, and call on the Department of the Environment to increase its input to international trading negotiations. [para 88]

We urge the Government to place "trade and environment" high on its list of priorities for the WTO Ministerial Meeting in Singapore, making every effort to ensure that the relationship between Multilateral Environmental Agreements and the GATT rules is resolved at that meeting. [para 91]

Whilst we have received evidence that positive measures have been introduced by the European Community to improve the terms of trade for developing countries and to encourage the export of sustainably-produced goods, there is still scope for improvement. We recommend that at the next review of the agricultural element of the Generalised System of Preferences, action is taken to ensure that the income received by developing countries is better targeted towards sustainable production. [para 100]

From the evidence provided, we conclude that, as yet, trade liberalisation has not had a significant positive impact on the environmental sustainability of Third World agriculture and in many cases has played a part in the spread of unsustainable farming methods. [para 111]

In general, multinational corporations appear to be operating to high environmental standards worldwide. However, we are concerned that some industries have been responsible for serious environmental damage in some developing countries. We call upon all industries to establish and enforce consistent international standards for all their operations, so that the environmental impact of oil, mineral and other material extraction in developing countries is no worse than that in developed countries. [para 119]

We recommend that the Government give careful consideration to carrying out research into ICREAs and their efficacy. [para 138]

We recommend that further work be carried out at each level of government—national, international and global—to put into practice the commitment to integrate environmental considerations into all other policy areas, a commitment which lies at the heart of the Rio Agreements and the Maastricht Treaty. [para 154]

We urge the United Kingdom Government and European Union to lend their full support, during WTO negotiations, to the proposed Prior Informed Consent system for Domestically Prohibited Goods. [para 176]

In view of the safeguards against protectionist abuse enshrined in the European Commission's

proposed amendment of Article XX of the GATT, and in view of our conclusion that the successful negotiation and implementation of Multilateral Environmental Agreements is a vital element in tackling global and transboundary environmental problems, we urge the United Kingdom Government to lend its full support to the European Commission's proposal as the basis for resolving this issue at the WTO Ministerial Meeting in Singapore. We urge the United Kingdom Government to oppose any proposals which would weaken the legitimacy of trade measures taken pursuant to MEAs. [para 187]

We urge the European Community to consider the potential conflict between the TRIPs Agreement and the Biodiversity Convention in any future review of the effectiveness of the TRIPs Agreement. It should in particular give consideration to the role of international obligations and legal agreements to ensure that food security is not compromised by intellectual property rights. [para 192]

We recommend that the preferred approach to transboundary or global environmental problems must be through Multilateral Environmental Agreements wherever possible. [para 200]

It is our view that animal welfare should be given separate consideration by the WTO. [para 205]

Although our evidence indicates that the EU ecolabelling scheme has had very little impact on either trade or the environment to date, we consider that a recognised official scheme of voluntary ecolabelling could be an effective way of improving performance in industry and raising environmental awareness among consumers. The environmental effectiveness of ecolabelling would be impaired if the WTO rules were used to prevent the application of life cycle analysis, and we therefore support the European Union position that whilst there is a need for greater transparency, voluntary ecolabelling schemes should not be brought under the scope of the Technical Barriers to Trade agreement. [para 219]

We also encourage the United Kingdom Government and the European Commission to support the work of standards-making bodies in the International Standardisation Organisation as they seek to draw up an internationally recognised methodology for life cycle analysis, which could lead to mutual recognition of national ecolabels in the future. We emphasise that international standards should be high, leading to upward harmonisation rather than a "lowest common denominator". [para 220]

We regret that at the Rio Summit the proposal on forestry standards concerned only tropical forests and was therefore rejected. We wish to see the establishment of an internationally recognised system of standards for sustainable forestry, and are concerned that existing national schemes may make it difficult to achieve a worldwide standard. [para 230]

We commend the Forest Stewardship Council and the WWF 1995 Plus group of companies for their commitment to sustainable forestry. Until worldwide standards for sustainable forestry are established, we approve the use of the Forest Stewardship Council scheme and recommend that the Forestry Authority enter into negotiations with the Forest Stewardship Council in order to encourage Forest Enterprise and other major forestry owners in the United Kingdom to join the scheme. [para 231]

We also recognise that because of the cost of FSC certification, it will not be feasible for all forests to be certified to FSC standards. Adherence to the guidelines developed by the International Tropical Timber Organisation, International Standardisation Organisation and Intergovernmental Panel on Forests might prove to be a more practicable way of raising forestry standards on a national scale, particularly in developing countries where resources are limited and timber is an important source of income. [para 232]

B&Q's environmental projects demonstrate how effective voluntary initiatives can be in raising environmental standards overseas without hindering the flow of international trade. We recommend that the Government publicise the benefits to the private sector of an "environmentally friendly" purchasing policy and encourage industry and retailers to initiate further schemes of this kind. However, we are conscious that small-scale schemes such as

the Bainings project, whilst intrinsically worthwhile, do not have a significant impact on the global scale. [para 234]

Our evidence indicated that border tax adjustment is unlikely to be an acceptable way of overcoming concerns about competitiveness. However, certain British industries are voicing strong objections to the introduction of some of the new environmental measures and we therefore urge the Government not to give in to these; for example, efforts to reduce carbon dioxide emissions by taxing the energy used in transport and industry should continue. We also encourage the Government to persist in its efforts to inform industry of the commercial benefits of good environmental management. [para 242]

We recognise the considerable difficulties involved in developing harmonised international standards for environmental management and for products, but note that this means of creating a level playing field has found widespread acceptance both in developed and developing countries, in government and in industry. We urge the International Standardisation Organisation to support existing high national environmental standards, and to ensure that its work does not result in a downward harmonisation of environmental standards. The ISO14000 standards should be awarded only to those who have demonstrated a clear commitment to environmental improvement and where there is clear evidence that the standards are enforced. [para 248]

The success of the OECD's Joint Session of Trade and Environment Experts in analysing trade and environment conflicts and producing policy guidelines illustrates the value of considering trade and environment issues on a balanced footing. We support the concept of an International Panel of Experts on Trade, Environment and Sustainable Development, which we believe could take forward thinking on trade and environment on a worldwide scale. This Panel should include representatives from both OECD and developing countries and could become the main policy-making forum on trade and environment. [para 267]

We commend the WWF for its initiative in setting up and securing funds for the establishment of an International Panel, but are concerned that its agenda has deterred the United Kingdom from contributing. We therefore encourage the WWF and United Kingdom Government to enter into further discussions to establish whether a mutually acceptable agenda can be agreed. If these discussions are successful, we look to the Government to reconsider its decision not to fund the Panel. [para 268]

SECTION 1: INTRODUCTION

Historical background

10. According to environmental publishers Cameron May, 'the engine that is driving world economic growth faster than at any other point in history is trade'.¹ 'The value of world traded merchandise passed the \$4,000 billion mark for the first time last year, and is expected to grow a further eight per cent this year.'² This remarkable growth in world trade has been made possible by the progressive removal of national trade barriers under the auspices of the General Agreement on Tariffs and Trade (GATT).

11. The GATT came into being in 1948. Its instigators aimed to create a free global trading system which, together with the Bretton Woods institutions (the International Monetary Fund and World Bank) would establish the economic foundations for worldwide peace and prosperity.³ American academic Dan Esty sees GATT's success in terms of "limiting the power of governments around the world ... to give in to the pleading of domestic special interests seeking to hide from the rigours of the global market place" and echoes the views of free market economists in asserting that free trade enhances the welfare of the silent majority, rather than the "loud voices of organised (protectionist) special interests".⁴

12. By the end of 1994, 128 governments had become contracting parties to GATT. Together they account for 90 per cent of world trade⁵ although a number of important trading nations, including China and Russia, have not yet acceded.⁶ From 1 January 1995, the GATT's role of "cornerstone of an international trading system and forum for multilateral negotiation"⁷ was taken over by the new World Trade Organisation (WTO), a "preeminent international trade association" which has new, stronger powers to enforce the GATT rules.⁸

13. When the GATT was originally drafted, environmental policy was in its infancy and there was little or no awareness that trade liberalisation might have environmental implications. However, the growth of worldwide environmental concern during the 1970s contributed to a rapid evolution in environmental law and questions began to emerge as to the compatibility of the environmental and trade regimes.⁹ A GATT Working Group on Environmental Measures and International Trade was set up in 1974 but met infrequently and failed to reach any conclusions.¹⁰

14. It was not until the 1990s that the relationship between trade liberalisation and environmental protection became a subject of widespread interest among the environmental community. Three events were responsible for triggering this wider awareness. The first was the Rio Earth Summit of 1992 where governments agreed together that "states should co-operate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the problems of environmental degradation" (Principle 12 of the Rio Declaration). The second event was the infamous "tuna-dolphin" dispute between the United States and Mexico, in which a GATT panel ruled that the United States was not entitled to ban imports of Mexican tuna—a ban introduced on the grounds that Mexican fishing methods killed an unacceptable number of dolphins. While the Rio Declaration reflected a general assumption that free trade is good for the environment, the "tuna-dolphin" decision seemingly pointed to a predominance

¹James Cameron, comments on publicity leaflet for Cameron May conference

²World Trade Organisation "Focus" newsletter, November 1995

³Dan Esty, "Greening the GATT"

⁴Dan Esty, "GATting the Greens"

⁵Ev p6

⁶Q242

⁷Ev p6

⁸Annex IV

⁹Ev p6

¹⁰Steve Charnovitz, "Improving Environmental and Trade Governance" vol. 7 no. 1

of commercial interests over environmental priorities.¹¹

15. Within the US, a third event—the negotiation of the North American Free Trade Agreement (NAFTA)—added further fuel to the “trade-environment” debate as Ross Perot and other opponents of the agreement “scored political points by raising the spectre of pollution spillovers along the Mexico-US border, downward harmonisation of United States environmental standards and unfair competition from lower-cost Mexican goods produced under conditions below United States environmental standards”.¹²

16. As with all controversial issues, there are polarised viewpoints within the trade and environment debate. Advocates of free trade, particularly in the developing countries, are concerned that national and international environmental legislation could act as a barrier to trade, citing instances where national governments have introduced import bans or other protectionist devices on the pretext of safeguarding the environment. Environmentalists, aware of the traders’ concerns, fear that the trade rules could be called upon to hinder genuine attempts to protect the environment, and have therefore been seeking to “green the GATT”.

17. However, a distinguishing feature of the trade-environment debate is that there is a well-established “middle ground”, occupied by those who are convinced that free trade and environmental protection are entirely compatible, if not mutually reinforcing, objectives and that the observed conflicts can be reconciled through adjustments to the existing international trade and environment regimes. This “balanced” viewpoint has been espoused by some of the leading players on the world stage, notably the Organisation for Economic Co-operation and Development (OECD),¹³ the World Bank,¹⁴ the European Union¹⁵ and the United Kingdom Government¹⁶ and has become an underlying assumption for international “trade and environment” policy.

18. Steve Charnovitz¹⁷ and Friends of the Earth¹⁸ pointed out that the relationship between trade and environment is developing in the context of an increasingly global world economy. Radical economist Colin Hines describes the process of globalisation, “whereby trade barriers are reduced and business and capital can move wherever their profit is greatest”.¹⁹ While this process has brought about economic growth on a world scale, Hines observes that the growth has been concentrated in the OECD countries and indeed, we were presented with compelling evidence indicating that the poorer developing countries have been the losers, both economically and in terms of environmental degradation.²⁰ Nonetheless, the process of globalisation continues apace, and with it the pressure for global forms of government to enforce the growing body of international law.²¹

19. The process of international economic integration can be seen at its most developed within the European Community, “a single market with a whole series of other integrated policies, one of which, of course, is environment”.²² Nation states in other regions are now joining together in an attempt to emulate the EU’s success: the NAFTA and Mercosur²³ agreements (in North and South America respectively) are already under way, and further free

¹¹Dan Esty, “Greening the GATT”

¹²Dan Esty, “Towards a Greener GATT”

¹³OECD “Report on Trade and Environment”, 1995

¹⁴App 10

¹⁵European Commission Communication on Trade and Environment, February 1996

¹⁶Q2

¹⁷Steve Charnovitz, “Improving Environmental and Trade Governance”

¹⁸Ev p119

¹⁹App 4

²⁰Ev p43; App 7

²¹See, for example, Steve Charnovitz “Improving Environmental and Trade Governance”

²²Q485

²³Mercosur is a free trade agreement between Argentina, Brazil, Paraguay and Uruguay

trade areas, notably in the Pacific rim (APEC)²⁴ and Southern Africa,²⁵ are at an earlier stage of development. If their experience repeats that of the EU, economic union will be followed by calls for a "level playing field" in environmental laws and standards.

20. As closer links between economic and environmental policy are forged on a global scale, the trade and environment debate becomes increasingly relevant. From the evidence presented to this Inquiry it is clear that "the debate is no longer just about GATT rules and the environment, or the environmental effects of trade policy";²⁶ it has expanded to embrace such fundamental issues as the environmental impact of commercial activity, the appropriateness of third world development strategies, the feasibility of sustainable development and the future of the nation state; and we were reminded that issues of trade and environment should not be separated from "the economic and social problems that they are embedded in".²⁷ Such matters are beyond the scope of an Environment Committee Inquiry, but formed a constant backdrop to our deliberations.

The relationship between trade liberalisation and environmental protection

21. During the course of our Inquiry, we were presented with arguments which represented the whole spectrum of the trade/environment debate. Opinions ranged from that of the World Trade Organisation, who assured us that "trade liberalisation is accepted as an essential, if not a sufficient element of policies to achieve better environmental protection and sustainable development"²⁸ to that of the Weardale Green Party who warned that "there is a fundamental conflict of interests between the liberalisation of trade and the protection of the world's environment".²⁹ This section of the Report summarises the range of arguments regarding the nature of the relationship between trade and environment. Significant questions arising from these arguments are then explored at greater depth in the subsequent sections.

How can trade benefit the environment?

THROUGH ECONOMIC GROWTH

22. Underlying all arguments about the benefits of free trade is the theory of "comparative advantage". The United Nations Environment Programme (UNEP) explained this: "when countries specialise in the production of certain goods where they have a comparative advantage, eg better access to natural resources or lower wages than other countries, overall efficiency is achieved on an international scale. Trade restrictions are considered to cause inefficiency because they disrupt the full exploitation by each country of its comparative advantage".³⁰

23. The majority of witnesses—whether business interests;³¹ international institutions such as the OECD,³² European Commission,³³ World Trade Organisation³⁴ and United Nations Conference on Trade and Development (UNCTAD);³⁵ or independent academics like Dan Esty³⁶ and Nick Johnstone³⁷—held that free trade is essentially supportive of environmental improvement. This general consensus is expressed in Agenda 21, which states that "An open, multilateral trading system makes possible a more efficient allocation and use of resources and

²⁴ Annex IV

²⁵ Q482

²⁶ Steve Charnovitz "Improving Environmental and Trade Governance"

²⁷ App 4

²⁸ Ev p67

²⁹ Weardale Green Party (Ev not printed)

³⁰ Ev pp88-89

³¹ WBCSD, "Trade and Environment: a Business Perspective"; Ev p153; Ev p190

³² OECD "Report on Trade and Environment", 1995

³³ European Commission Communication on Trade and Environment, February 1996

³⁴ Ev p67

³⁵ App 9

³⁶ Q304

³⁷ App 5

thereby contributes to an increase in production and incomes and to lessening demands on the environment. It thus provides additional resources needed for economic growth and development and improved environmental protection." To quote Dan Esty, "it is a pretty common empirical observation that the richer the country the more resources available for environmental investment"—although central London may be polluted, it does not compare with Mexico City.³⁸

THROUGH THE REMOVAL OF SUBSIDIES AND OTHER PROTECTIONIST MEASURES

24. While free trade is seen as generally supportive of environmental improvement, protectionism and isolationism were viewed by many witnesses as threats to sustainable development. Elizabeth Dowdeswell, Executive Director of UNEP, said in 1994: "Protectionism is not a solution to sustainable development. Rather, it undercuts co-operation, stagnates development, and may contribute—as agricultural subsidies demonstrate—to environmental degradation."³⁹

25. The Department of the Environment evidence describes how the Common Agricultural Policy imposes costs on producers in developing countries as well as taxpayers in the European Union (EU). The availability on the world market of cheap (subsidised) EU and United States agricultural produce can depress world prices, meaning that poorer farmers in developing countries get a low price for their crops. This inhibits investment in sustainable farming methods and "one of the consequences can be the adoption of farming practices which are not only inefficient but can have environmentally damaging consequences, for instance where agriculture is extended into vulnerable tropical forests".⁴⁰ Agrochemical subsidies encourage the overuse of polluting chemicals, with serious environmental consequences.⁴¹ It was the developing countries who insisted that agricultural protectionism be tackled during the Uruguay Round,⁴² and one of the main achievements of the Uruguay Round of GATT was the (limited) progress made in persuading the United States and EU to reduce subsidies to farmers.⁴³

THROUGH ENCOURAGING THE SPREAD OF CLEAN AND EFFICIENT TECHNOLOGY

26. During our visit to Singapore, we learned how the growing demand for clean technology in the Far East is market-driven, with many companies seeking to raise their standards in order to export to the West.⁴⁴ In Eastern Europe too, the opening up of former Communist countries to the international market has produced pressures for higher environmental standards, together with observable improvements in the more prosperous nations such as Slovakia.⁴⁵ At the same time, trade liberalisation encourages the dissemination of state-of-the art environmental technology:⁴⁶ this is particularly the case with multinational companies like ICI who operate to the highest European or American standards wherever in the world their plants are situated.⁴⁷ The case study in Box 1 shows how economic pressures can result in better environmental performance even among medium sized industries in a developing country.

³⁸Q304

³⁹Cited in WBCSD, "Trade and Environment: a Business Perspective"

⁴⁰Ev p13

⁴¹Theodore Panayotou, "Green Markets", 1993, International Center for Economic Growth, San Francisco (ISBN 1 55815 244 X)

⁴²Q155

⁴³Q478; WWF, "Agriculture in the Uruguay Round: Implications for Sustainable Development in Developing Countries"

⁴⁴Annex I

⁴⁵Environment Committee Third Report of 1994/5, "Pollution in Eastern Europe" (HC 366-I)

⁴⁶OECD "Report on Trade and Environment", 1995

⁴⁷Q521

Argentina's Paper Industry

A study on Argentina's paper industry shows that in response to trade liberalisation and the associated industrial restructuring process, a number of medium-sized enterprises have achieved certain improvements in environmental performance as a result of their efforts to achieve higher production efficiency. Examples are the recovery of fibres in paper mills and higher efficiency in the use of energy and water. Many firms now possess installations for the primary treatment of effluents, which in various cases were installed or improved during the restructuring process. There has also been an increase in the use of recycled materials with a view to reducing costs, particularly by the packaging industry. However, environmental improvements which do not reduce costs, such as secondary effluent treatment or reduced air pollution, have been less frequently implemented by firms.

Source: UNCTAD Report "Environmental Policies, Trade and Competitiveness"

Box 1

How can trade liberalisation damage the environment?

27. Only a small minority of witnesses considered trade liberalisation to be unequivocally bad for the environment. One of these was Colin Hines, co-author of "The New Protectionism", who wrote that "the paramount necessity to be internationally competitive implicit in this system inevitably sacrifices adequate local environmental protection measures, since they are deemed to make a nation uncompetitive".⁴⁸ The Green Parties of Weardale and Mid Northumberland were similarly opposed to the whole concept of global trade.⁴⁹ A much larger group of witnesses, while not opposed to free trade in principle, were able to point out some serious environmental and social consequences which have been linked with the opening up of world markets.

ECONOMIC GROWTH CAN LEAD TO INCREASED POLLUTION

28. Several witnesses, including economists Paul Ekins,⁵⁰ the Centre for Social and Economic Research on the Global Environment⁵¹ and Nick Johnstone of the International Institute for Environment and Development⁵² made the point that although free trade might produce economic growth, there is no guarantee that an individual country will choose to spend its new found wealth on improving or protecting the environment. This will only happen if appropriate environmental policies are in place.⁵³ For many developing countries, the first priority is to provide the basic necessities of life such as food and clean water and "it is not until countries achieve middle-income status that they even perceive themselves as having any resources to devote to environmental protection".⁵⁴ Our visit to Thailand showed how trade-related industrialisation in developing countries, in the absence of adequate pollution control, can be linked with severe environmental degradation.⁵⁵

29. WWF and Nick Johnstone referred to empirical studies of countries at different stages of development, in which per capita income was plotted on a graph against levels of polluting emissions.⁵⁶ The resultant graph was a "U-shaped curve" which showed that once countries had reached a certain level of development, the sulphur dioxide levels started to decline. Dan

⁴⁸ App 4

⁴⁹ Northumberland Green Party; Weardale Green Party (Ev not printed)

⁵⁰ Paul Ekins, "Harnessing Trade to Sustainable Development"

⁵¹ App 2

⁵² App 5

⁵³ Q57

⁵⁴ Q306

⁵⁵ Annex I

⁵⁶ eg Lucas, Wheeler and Hettige, "Economic Development, Environmental Regulation and International Migration of Toxic Pollution: 1960-1988", in P. Low (ed) *International Trade and the Environment*

Esty was confident that “per unit of output, the pollution drops as economies grow”⁵⁷ but Charles Arden-Clarke of WWF warned against placing too much confidence in the “U-shaped curve”: for one thing, the empirical studies totally ignored carbon dioxide emissions, which have been demonstrated to increase consistently as per capita income grows.⁵⁸ Secondly, the original study looked at various different countries at the same point in time: had the researchers monitored the relationship between income and emissions in the same country over a long period, there is a possibility that their conclusions could have been different. Nick Johnstone postulated that the decrease in pollution as countries became wealthier could partly have resulted from the migration of polluting industries, which merely shifted the pollution elsewhere.⁵⁹

30. Regardless of the nature of the relationship over time between income and pollution, the “U-shaped curve” offers little consolation when irreversible environmental damage, such as the extinction of a species, has occurred. In any case, “as long as consumption patterns in the (developed) countries do not change, there is a limit to this process, at which point emissions will no longer fall”.⁶⁰ a view shared by Friends of the Earth who viewed current levels of consumption in the developed world as environmentally unsustainable.⁶¹

TRADE DOES NOT BRING ECONOMIC GROWTH FOR ALL

31. Evidence from Oxfam and the Royal Society for the Protection of Birds (RSPB) revealed that trade liberalisation under GATT has not brought economic growth to all the nations of the world. The RSPB quotes a 1995 UNCTAD report which revealed that as a result of the GATT Uruguay Round, the world’s less developed countries will lose an estimated \$163-265 billion per year in export earnings, while paying \$145-292 billion a year more for food imports.⁶² It is difficult to envisage how free trade can benefit the environment under these circumstances, particularly for the extreme cases like Cape Verde and Guinea Bissau which stand to lose between 25 and 50 per cent of their export earnings.⁶³

COMMERCIALISATION CAN LEAD TO DEVALUATION OF ENVIRONMENTAL RESOURCES

32. Most of the case studies illustrating the negative effects of trade on the environment came from the developing countries. As WWF pointed out, the economic and environmental problems of developing countries cannot be blamed solely on the GATT or trade—many other factors, notably debt, the strictures of Structural Readjustment Programmes, and inadequate domestic policies, must be taken into account.⁶⁴ However, in order to obtain foreign exchange, poorer countries have been shifting away from self sufficiency in food and increasing their production of export crops for the world market⁶⁵—a process which is facilitated by trade liberalisation. Commenting on this process, the Centre for Social and Economic Research on the Global Environment wrote that “The existing system of trade has encouraged the observed globalisation of the world food system in the last half (century), through both the distortion of relative prices of food and non-food commodities, and through technological change. This has had detrimental social and environmental impacts on developing country agriculture in terms of food security, labour allocation to non-food production, high levels of pesticide and other chemical use, for example. The liberalisation of trade conceivably will accelerate such processes ...”.⁶⁶ The example of the Hidrovia Waterway in Box 2 shows how efforts to increase trade and commercialise agriculture can lead to severe environmental problems.

⁵⁷Q306

⁵⁸Q57

⁵⁹App 5

⁶⁰*ibid*

⁶¹Ev p120

⁶²App 7

⁶³*ibid*

⁶⁴Q84, Q354, App 10

⁶⁵Ev pp 117, 127

⁶⁶App 2

The Hidrovia Waterway

The proposed Hidrovia Waterway will link the countries of Argentina, Brazil, Paraguay and Uruguay (which have jointly established the Mercosur free trade agreement) and Bolivia. Hidrovia will extend agricultural frontiers and increase regional trade. It is specifically intended as a cheap way of transporting agricultural commodities—particularly soybeans—mining products and timber from the interior of the countries to ports for export.

The engineering works threaten to upset the fragile hydrological system of the area, potentially leading to:

- cycles of drought and flooding
- destruction of the Gran Pantanal, the world's biggest wetland
- increasing soil erosion
- a reduction in the natural dispersion of tropical flora and fauna by waterway.

The cultivation of soybeans—which will be transported along the waterway—also has high environmental impacts. It tends to require large-scale forest clearance, needs high inputs of biocides, leads to high concentrations of nitrates in water, interferes with crop rotation and leads to severe depletion of groundwaters. Land clearance and the sudden abandonment of soybean production in response to changing world markets can also lead to severe soil erosion problems.

Source: Friends of the Earth

Box 2

33. Nick Johnstone⁶⁷ explained that because no monetary value had been put on the products of subsistence farming, or on the natural resources such as soil or forests which have been despoiled through commercial agriculture in countries such as Chile,⁶⁸ the amount of “economic growth” in some countries could have been seriously overstated.

TRADE LIBERALISATION ENCOURAGES LONG-DISTANCE TRANSPORT OF GOODS

34. One undisputed fact is that there has been a dramatic growth in transport associated with the growth of world trade, and with it an inevitable increase in emissions of carbon dioxide and other transport-related pollutants, together with large scale consumption of non-renewable fossil fuels. The Sustainable Agriculture, Food and Environment (SAFE) Alliance reported that airfreighted imports of fruit and vegetables into the United Kingdom more than doubled between 1980 and 1994, even though flying is the most energy-consuming form of transport.⁶⁹ Marks and Spencer's evidence described how, for example, beans are grown in Kenya—even though the natural conditions of day length and insect pollination are unsuitable for this crop—so that British consumers can have the vegetables of their choice at any time of year.⁷⁰ WWF told us that transport “is the area where the OECD and many other organisations have accepted the most direct environmental impact of trade is ...”.⁷¹

TRADE LIBERALISATION ENABLES INDUSTRIES TO MOVE TO AREAS WHERE ENVIRONMENTAL STANDARDS ARE LOW

35. Environmentalists have two catch-phrases to describe this particular concern: “pollution havens” and “eco-dumping”.⁷² Because industries are free to move wherever they wish, heavily polluting industries such as chemical or paper manufacturing may choose to cut costs by relocating in a “pollution haven”—normally a less developed country—with lower

⁶⁷ App 5

⁶⁸ Ev p49

⁶⁹ App 8

⁷⁰ Marks & Spencer (Ev not printed)

⁷¹ Q126

⁷² Duncan Brack, “Trade and Environment: a Brief Guide to the Issues”, RIA Briefing Paper no. 23, July 1995

standards of environmental control. Our evidence indicated that this is not happening to any significant extent:⁷³ however, industries have been known to threaten to relocate in order to prevent governments from introducing more stringent environmental legislation (as did the Paper Federation of Great Britain during this Inquiry).⁷⁴

36. There is more credence given to the notion of “eco-dumping” which argues that because they are not obliged to invest in pollution abatement or sustainable resource management, some third world companies can produce goods more cheaply than their counterparts in developed countries. The competitive advantage so gained could mean that industries in the less-regulated areas flourish while those in countries with stronger environmental regimes decline. Oxfam and WWF pointed to the “Maquiladora Zone” of Mexico to show how polluting industries can rapidly spring up where environmental controls are lax and there is a ready market for their products.⁷⁵ Some economists actually see lower environmental standards as a legitimate source of “comparative advantage” on the grounds that the relatively unspoilt environments of some developing countries have a greater capacity to absorb pollution: a view which has been accepted by the European Commission, among others.⁷⁶

ECONOMISTS’ SOLUTIONS TO THE ENVIRONMENTAL PROBLEMS ASSOCIATED WITH TRADE

37. The economists’ answer to the environmental problems and potential problems described above is to internalise environmental costs.⁷⁷ The Royal Society for the Protection of Birds (RSPB) stated simply that “a beneficial and mutually supportive scenario between trade and environmental protection will only come about if product prices reflect their real production costs.”⁷⁸ Much effort has been made by governments to put this principle into practice, and the “Polluter Pays Principle” has become a foundation of EU environmental policy. However, the concerted opposition to “green taxes” from some industry worldwide, such as that expressed by the British paper industry in relation to the proposed EU carbon tax,⁷⁹ showed that widespread cost internalisation is not likely to be achieved in the near future. In any case, it is generally recognised that many kinds of environmental impact are impossible to value in monetary terms.⁸⁰ The issue of cost internalisation will be dealt with in more detail in the third section of this Report.

How can efforts to protect the environment restrict trade?

38. In the absence of a free market where all environmental costs are reflected in the prices of goods and services, environmental problems must be dealt with through government intervention (this has led some economists to describe environmental problems as “intervention failures”).⁸¹ There are many ways in which governments can seek to protect the national and local environment, the most familiar being prescriptive regulations such as those which control polluting emissions or safeguard areas of natural beauty: a brief description of the development of environmental legislation and policy in the United Kingdom can be found in the Department of the Environment memorandum.⁸²

39. The WTO told us that the vast majority of environmental laws have very little connection with trade, saying that “99 per cent of the environmental policies which are in place in WTO members run no risk whatsoever of falling foul of WTO rules”.⁸³ However, there are certain circumstances under which governments have sought to impose trade

⁷³ OECD “Report on Trade and Environment”, 1995; WBCSD, “Trade and Environment: a Business Perspective”

⁷⁴ Q643

⁷⁵ Ev p50

⁷⁶ European Commission Communication on Trade and Environment, February 1996

⁷⁷ Dan Esty, “Greening the GATT”; App 10

⁷⁸ App 7

⁷⁹ QQ641, 642

⁸⁰ App 7; Dan Esty, “Greening the GATT”

⁸¹ App 2

⁸² Ev p5

⁸³ Q178

restrictions for the purpose of environmental protection. These “environmental trade measures” form the focus of current discussions within the WTO Committee on Trade and Environment.

40. There are two basic reasons why a national government, or group of governments, may wish to impose restrictions on trade in order to protect the environment. The first is to defend domestic environmental legislation when it comes under attack from industries which are worried about overseas competition. Frustrated with industry’s resistance to “green” taxes such as the EU carbon/energy tax, environmentalists such as Paul Ekins have suggested that either exporters could be granted a refund of the “green tax” on exported products (so that they can keep the price down), or a duty could be placed on imports from countries which do not levy the tax: in this way, any effects of the tax on the competitiveness of European industry would be removed.⁸⁴ Border tax adjustments of this kind are currently not allowed under the WTO rules and this proposal is not supported by the major international organisations, including the EU⁸⁵ and OECD.⁸⁶

41. The second reason is a desire to persuade other countries to behave in a more environmentally responsible manner, and is relevant to the control of transboundary and global environmental damage. For example, in order to slow down the depletion of the stratospheric ozone layer, it is important that all countries take action to phase out chlorofluorocarbons (CFCs), so the Montreal Protocol provides for trade sanctions to place economic pressure on those who are unwilling to sign up to the phase-out targets.⁸⁷ Trade restrictions of this kind may either be taken unilaterally by an individual country, or may be an integral part of a Multilateral Environmental Agreement such as the Montreal Protocol. It is the perceived unfairness of unilateral trade restrictions which has resulted in disputes being brought to the GATT; as yet, no country has questioned the legitimacy of trade restrictions in Multilateral Environmental Agreements although it is feared that non-parties to the Agreements might object in the future.⁸⁸ The case study in Box 3 shows how a successful GATT challenge put paid to a well-meaning unilateral effort to protect the tropical rain forest.

42. While these are the two exclusively environmental reasons why a government may seek to restrict trade, a number of broader reasons for protectionism have been suggested, some of which impinge on the environment. For example, developing countries have traditionally imposed import tariffs on food in order to protect their own farmers: whilst the main reason for this is to ensure a secure supply of food, the maintenance of traditional agriculture—whether maize growing in Mexico⁸⁹ or rice farming in Japan⁹⁰—may benefit the environment, for example through preserving habitats for wildlife.

43. Finally, it must be remembered that some “environmental” import restrictions have, on examination, been found to be “disguised protectionism”, their main aim being to exclude imports from competitors rather than to protect the environment. It is always difficult to assess the primary motive behind any particular environmental measure but sometimes the governments give themselves away: so, for example, when the United States placed restrictions on imports of gasoil from Venezuela and Brazil, the Assistant Administrator for Air in the United States Environmental Protection Agency told a Senate Committee that she was motivated by a desire to improve the competitiveness of United States petroleum companies *vis-à-vis* Venezuelan companies.⁹¹

⁸⁴Paul Ekins “Harnessing Trade to Sustainable Development”; WWF “Taxes for Environmental Purposes: the Scope for Border Tax Adjustment under WTO Rules”

⁸⁵European Commission Communication on Trade and Environment, February 1996

⁸⁶OECD “Report on Trade and Environment”, 1995

⁸⁷Ev p10; App 6

⁸⁸Ev p3

⁸⁹WWF “Agriculture in the Uruguay Round”

⁹⁰App 7

⁹¹Steve Charnovitz “The WTO Panel Decision on US Clean Air Act Regulations”, International Environment Reporter, 6 March 1996

GATT Dispute Ends Austrian Restrictions on Tropical Timber Imports

In 1992 Austria introduced unilateral trade measures that were intended both to restrict imports of tropical timber and to assist tropical timber-exporting countries in moving towards sustainable forest management without economic loss. The Austrian Parliament agreed to:

- implement a mandatory label for all tropical timber imports
- introduce a separate, voluntary label for sustainably produced timber
- levy a 70 per cent customs duty on all tropical timber imports
- compensate disadvantaged exporting countries and provide funding for tropical rainforest protection projects, using revenues raised through import tariffs and through new and additional Austrian funding of about US\$17 million.

However, whilst attempts were made to check the compatibility of these measures with the GATT rules, the way in which the legislation was introduced generated considerable controversy because:

- legislation was implemented without prior notification to affected parties
- the measures only applied to tropical, not temperate, timber
- Austria's domestic economy could have stood to benefit, since no counterbalancing measures were applied to domestic timber production (a consequence of the distinction made between tropical and temperate timber).

ASEAN exporting countries reacted vigorously, threatening to boycott Austrian exports and bringing their complaints to a GATT council meeting in November 1992. As a result, the proposal for a 70 per cent import tariff and the requirement that all tropical timber be labelled were both rescinded.

Source: Friends of the Earth

Box 3

"UNINTENTIONAL" BARRIERS TO TRADE

44. Trade restrictions such as import bans, export taxes and quotas have a direct and deliberate effect on international trade and as such have formed the main focus of the GATT negotiations. Now, however, the WTO's attention has been drawn to a variety of new environmental measures which some countries fear could unfairly discriminate against their products. These are the voluntary measures adopted by companies in order to improve their environmental performance and image, and include ecolabelling, environmental management systems such as the United Kingdom's BS7750, and purchasing policies which seek to ensure that suppliers operate in an environmentally sustainable manner.⁹² Although these voluntary schemes place no restrictions on import or export, they have the potential to alter the pattern of consumer demand for particular goods. So, for example, if "green consumers" make sure that they only buy ecolabelled washing machines, Hoover (the only manufacturer to have gained an ecolabel)⁹³ may increase its market share at the expense of other manufacturers. For various reasons, which will be explored later in this Report, foreign manufacturers may be less well placed to obtain the ecolabel and may therefore view it as a disguised barrier to their exports.⁹⁴

45. Both the World Trade Organisation⁹⁵ and the World Business Council for Sustainable Development⁹⁶ are concerned about the possible impact on trade of these voluntary measures: the WTO wrote that "the direction and speed of events, from the demands of consumers to industry reaction in the marketplace and thereon to national government legislation, makes the need for multilateral policy co-ordination urgent".

⁹²WBCSD, "Trade and Environment: a Business Perspective"; App 9

⁹³Annex II

⁹⁴Annex VI

⁹⁵Ev p68

⁹⁶WBCSD, "Trade and Environment: a Business Perspective"

Trade restrictions allowed under WTO rules

46. Steve Charnovitz wrote provocatively that "Since trade is voluntary, it does not occur unless it makes participants better off. Thus, governments don't need a reason to permit free trade. It is the denial of free trade that requires a rationale."⁹⁷ From this he argues that "there is no institution governing trade itself; the GATT governs only trade restrictions and distortions". Of course, the main purpose of GATT is to liberalise trade,⁹⁸ but it does this by defining limits around the use of trade restrictive measures.

47. The main principles of the multilateral trading system are set out in the memorandum from the Department of the Environment (DoE). As the DoE explains, "the main principle underlying the GATT rules on trade in goods is non-discrimination. This has two main components: non-discrimination between supplier countries (known as Most-Favoured Nation or MFN treatment) and non-discrimination between imported and domestically produced products (known as National Treatment)". These two components are explained in greater detail in the DoE's evidence.⁹⁹

48. Article XX of the GATT allows a WTO member to depart from these basic obligations for certain specified purposes. While the protection of the environment is not specifically mentioned, Article XX(b) allows trade-restrictive measures "necessary to protect human, animal or plant life or health" and Article XX(g) provides an exemption for measures "relating to the conservation of exhaustible natural resources".¹⁰⁰ The kind of trade restrictions envisaged under these exemptions are border controls on products of a particular kind. So, for example, the European Union is perfectly entitled to ban sales of cars without catalytic convertors, and in so doing effectively closes the market to car manufacturers in Brazil and Mexico.¹⁰¹

PROCESSES AND PRODUCTION METHODS

49. What the WTO does not allow is discrimination between "like products"—products which are physically identical—for environmental reasons.¹⁰² For example, a can of tuna is exactly the same whether the fish has been caught in a driftnet which killed many dolphins, or whether it has been caught in a "dolphin-friendly" manner. Therefore, under GATT rules the United States was not entitled to ban imports of Mexican tuna in order to protect dolphins.¹⁰³

50. Consumers are increasingly aware that products which are physically identical may be associated with different environmental impacts, depending on the processes and production methods (PPMs) involved in their manufacture, and they increasingly seek information about the environmental effects involved in producing the products that they buy.¹⁰⁴ It is this concern that has led to the growth of ecolabelling based on life cycle analysis. Because ecolabelling criteria are largely based on the environmental impact of production, rather than the characteristics of the products themselves, some countries (such as Brazil) consider that they contravene the WTO rules and are contemplating the possibility of bringing a dispute to the WTO.¹⁰⁵

⁹⁷ Steve Charnovitz, "Improving Environmental and Trade Governance"

⁹⁸ Ev p6

⁹⁹ *ibid*

¹⁰⁰ *ibid*

¹⁰¹ Q179

¹⁰² Ev p6

¹⁰³ Dan Esty, "Greening the GATT"

¹⁰⁴ Ev p7

¹⁰⁵ Q675

CONCERNS OVER MULTILATERAL ENVIRONMENTAL AGREEMENTS

51. Existing Multilateral Environmental Agreements—notably the Montreal Protocol and CITES—could contravene the WTO rules because they restrict trade with non-parties, which goes against the “most favoured nation” principle. The signatories to the MEAs are therefore concerned that these important environmental initiatives could be hindered by non-parties¹⁰⁶ (who have perhaps lost out through the trade restrictions) initiating disputes, which they could possibly win unless GATT Article XX is changed. One of the major concerns of this Inquiry was to find an effective and practicable way of reconciling the trade restrictions in Multilateral Environmental Agreements with the non-discriminatory principles of the WTO.

52. Likewise, future Multilateral Environmental Agreements (MEAs) drawn up to protect the global environment could contravene the WTO rules if the trade restrictions were based on processes and production methods. The Montreal Protocol already includes provision for PPM-based measures, although they have not yet been deployed.¹⁰⁷

Purpose of the Inquiry

53. The brief summary of the trade and environment debate given above demonstrates the complexity of the issue and the degree of contradiction between opposing viewpoints. As the Government admits, much of the work carried out on trade and environment to date has been theoretical in nature and there is a shortage of empirical studies to back up the arguments.¹⁰⁸ However, it is generally agreed that the overriding goal of both economic and environmental policy is sustainable development—“development that meets the needs of the present without compromising the ability of future generations to meet their own needs”:¹⁰⁹ by carrying out this Inquiry, we attempted to gain a better insight into how sustainable development could be furthered both in the United Kingdom and worldwide.

54. In our questioning of witnesses, our aim was to get behind the theories and anecdotes in which the trade and environment debate largely consists, and see how far the theories are borne out by real world experience. We also sought to compare and evaluate the different proposals being put forward to reconcile currently incompatible aspects of trade and environment law, with the aim of making recommendations for the Government to present to the EU and thence to the WTO at its December Ministerial meeting. This was a difficult task, and we were grateful for the careful and detailed analysis of the issues already carried out by many of our witnesses and by our Specialist Advisers. We found that in many areas, the complexities were so great that it was impossible to make recommendations, but encouragingly found a number of concerns where there is a greater degree of consensus and which, we hope, our recommendations will bring closer to resolution.

¹⁰⁶Ev p61

¹⁰⁷Duncan Brack, “Trade and Environment: a Brief Guide to the Issues”, RIA Briefing Paper no. 23, July 1995

¹⁰⁸Ev p4

¹⁰⁹Brundtland Commission Report, “Our Common Future”, 1987

SECTION 2: THE INSTITUTIONAL FRAMEWORK

55. The preceding section of this Report has demonstrated the potential for trade liberalisation to impact upon the global and local environment, and the potential for environmental initiatives to alter international trade patterns. At Rio, the nations of the world agreed that both free trade and a clean environment are essential elements of sustainable development. The threat of a conflict between these two objectives is therefore taken seriously by the international community, and various international organisations and committees are currently undertaking research into the relationship between trade and environment, with the aim of formulating policies that will resolve the conflicts as fairly as possible. This section of our Report looks briefly at the work of each of these organisations.

The World Trade Organisation

56. The World Trade Organisation (WTO) is a new international institution with legal powers to administer, implement and enforce the agreements which collectively constitute the GATT.¹¹⁰ As the Department of the Environment explained, the WTO is essentially an intergovernmental organisation and its agreements are contractual agreements between governments.¹¹¹ The senior decision making body is the Ministerial Conference, which meets no less than once every two years (and is due to meet at the end of 1996 in Singapore), while on a day-to-day basis, decisions are taken by the General Council in Geneva. Richard Eglin of the WTO explained that the WTO's decisions are made by consensus: a vote can be called but this very rarely happens.¹¹²

Negotiations in the WTO

57. WTO negotiations are conducted on a basis of "one member, one vote".¹¹³ On the surface, this appears to be fair and democratic, leading ICI to comment that "The WTO has over 100 members, all of whom have equal standing and have voices within that organisation, and I do not perceive it being a big countries' club".¹¹⁴ However, evidence from the WWF and Oxfam revealed that some of the poorer countries lack the resources to make their voices heard. WWF told us that "The situation you have in terms of negotiations and in terms of the way the rules of the WTO are enforced is not democratic. There are...125 members of the WTO, there are only 86 permanent missions in Geneva: those who do not have permanent missions are simply not players... during the Uruguay Round the Bangladeshi mission had one representative following the negotiations and he was acting, or trying to act, for five other least developed countries who had no missions there".¹¹⁵

58. Friends of the Earth described how countries wishing to participate in international trade negotiations must first meet certain preconditions: only those countries that are responsible for more than 10 per cent of trade in the sector being discussed are invited to take part in initial consultations and key informal negotiations.¹¹⁶

59. Despite these criticisms, the WTO considered that the existing system of representation is the best that can practically be achieved. Richard Eglin assured us that:

"everybody has to obey the same rules, the rule of non-discrimination is probably the most powerful protection that a weaker contracting party...(has) for having fair conditions of trade on world markets. It is a matter of reality that when the EC speaks, what it says is listened to more carefully, let us say, than when a very small, impoverished developing country speaks, that is the reality of the WTO. But even so, we have had several instances where either the United States or the EC, who are by far the most powerful... have tried

¹¹⁰WWF, "Sustainable Development and Integrated Dispute Settlement in GATT 1994"

¹¹¹Q8

¹¹²Q146

¹¹³Q66

¹¹⁴Q515

¹¹⁵Q66

¹¹⁶Friends of the Earth, "Trade Secrets"

to do something in the WTO and have been prevented from doing so.”¹¹⁷

The WTO cited the example of how developing countries successfully pressed for agriculture to be discussed in the Uruguay Round¹¹⁸—however, according to WWF the Blair House Accord on agriculture “was basically sewn up between the United States and the EU, without any consultation at all with those poorer countries who are far more dependent for their livelihoods upon agriculture”.¹¹⁹

Dispute settlement

60. Enforcement of the WTO rules is carried out through the mechanism of dispute settlement.¹²⁰ Once a WTO dispute settlement panel has judged that a country has broken the rules, “the countries which believe they have been harmed can retaliate (by implementing trade sanctions) but that, in practice, does not mean much. Panama retaliating against the United States is not the same as the United States retaliating against Panama.”¹²¹ Retaliation is therefore very rare¹²² but according to the WTO “in the vast proportion of cases, countries do stick to dispute settlement findings”.¹²³ “If a major WTO member were to flagrantly ignore all of the dispute settlement and enforcement powers of the WTO, it would be the end of the WTO.”¹²⁴ In 1994, a Dispute Settlement Understanding was established as part of the new GATT. This has three procedural characteristics which could be used to advance the integration of trade, environmental protection and sustainable development, namely alternative dispute resolution, the appeals process and the opportunity for WTO dispute settlement panels to consult environmental experts.¹²⁵ The Secretary of State for the Environment considered that consulting experts in this way was preferable to the WTO employing “permanent” environmentalists who might not be able to provide the specialist knowledge pertaining to individual disputes.¹²⁶

61. Just as in the WTO negotiations, the lack of access to legal advice also puts developing countries at a disadvantage when it comes to dispute settlement. WWF told us that “In the Uruguay Round, the United States team was often 300 people; Sierra Leone’s team was often one. When there is a dispute the United States fields 20 lawyers, a developing country will be lucky if it fields one.”¹²⁷ Nevertheless, the Secretary of State did not see this as a problem. Commenting on the specific dispute between Thailand and the United States over tiger prawns, he expressed the view that the ASEAN countries would be able to work together and pool their resources.¹²⁸

Enhancing the “rule of law” in the WTO

62. The issue of who has the loudest voice in the WTO is relevant to the trade and environment debate: not only will it partially determine which of the items on the trade/environment agenda are given the most attention, it will also influence the shape of WTO policies which seek to reconcile the two objectives. It will be seen in the later section of this Report that developed and developing countries have very different priorities when it comes to trade and the environment. During our visit to Singapore, the Trade Minister emphasised how important it was to ASEAN countries that when trade and environment issues are debated, the concerns of developing countries should be given equal weight to the issues raised by the developed world.

¹¹⁷Q155

¹¹⁸*ibid*

¹¹⁹Q66

¹²⁰Q226

¹²¹Q227

¹²²Q228

¹²³Q229

¹²⁴Q230

¹²⁵WWF, “Sustainable Development and Integrated Dispute Settlement in GATT 1994”

¹²⁶Q787

¹²⁷Q71

¹²⁸Q798

63. One way to make the WTO fairer would be to give technical assistance to developing countries: this could be used to finance a post in Geneva, employ an environmental lawyer or even pay the fare for them to attend WTO meetings. WWF were able to give an example of such assistance: the Foundation for International Environmental Law and Development sponsors an environmental lawyer to represent Sierra Leone in the WTO.¹²⁹ While the WTO does provide some legal aid to countries which are involved in disputes, it considers that other organisations such as UNCTAD are better placed to provide financial help or technical assistance.¹³⁰

64. We recommend that the Government press those international organisations concerned with the environment and sustainable development to increase their provision of financial and technical assistance to developing countries who at present do not have sufficient resources to participate in WTO negotiations on trade and the environment. We also urge the United Kingdom Government to bear this factor in mind when considering its future contributions to these international organisations.

The WTO and the environment

65. The WTO made it abundantly clear that it is a *trade* organisation, and is not responsible for setting, evaluating or enforcing environmental policies, which "will continue to be the task of national governments and of other international organisations better suited to the task."¹³¹

66. Nevertheless, in recent years disputes concerning environmental legislation have been brought to the WTO (and formerly the GATT), the best known of these being the tuna-dolphin dispute. These disputes have arisen where a national environmental regulation has had the effect of directly or indirectly discriminating against imports from another country, and hence has infringed the GATT principles of most favoured nation or national treatment. As the volume of environmental law expands, such disputes are likely to arise in increasing number.¹³²

67. As the Department of the Environment explains, "the WTO looks at the effect of environmental measures on trade, rather than the reverse, since it is concerned with trade rather than environmental policy"¹³³ and the WTO confirmed that "we can give advice only on the trade side of the matter".¹³⁴ This fact has led to widespread concern among environmentalists that trade interests will automatically be accorded a higher priority than environmental concerns.¹³⁵

68. The WTO has not been deaf to these criticisms and following representations from some of the OECD countries, in 1994 set up a Committee on Trade and Environment (CTE). The role of the Committee is "to identify the relationship between trade measures and environmental measures, in order to promote sustainable development and to make appropriate recommendations on whether any modifications of the provisions of the multilateral trading system are required. It is the first international organisation examining these issues with such a remit."¹³⁶ The Committee will report to the Ministerial Meeting of the WTO, due to be held in Singapore in December 1996.¹³⁷ The Singapore Conference will be an important milestone in the history of the WTO, with the possibility that significant changes might be made to GATT rules in order to accommodate global environmental concerns. Details of the Committee's agenda can be found in the Department of the Environment's memorandum¹³⁸ and its substantive content will be considered in Section 4 of this Report.

¹²⁹Q140

¹³⁰Q156

¹³¹Ev p68

¹³²WBCSD, "Trade and Environment: a Business Perspective"

¹³³Ev p8

¹³⁴Q152

¹³⁵Dan Esty, "Greening the GATT"

¹³⁶Ev p16

¹³⁷*ibid*

¹³⁸Ev p17

69. Environmentalists have largely welcomed the creation of the WTO Committee on Trade and Environment as a first step in incorporating environmental considerations into international trade policy. However, many criticisms have been levelled at the Committee on the grounds that it is unbalanced in favour of trade—these will be considered further in Section 5.

Transparency of the WTO

70. At present the WTO Committee on Trade and Environment is the only international forum where governments from both developed and developing countries can come together both to discuss trade and environment conflicts and to change the trade rules if this is found to be desirable. There have therefore been a number of suggestions as to how the Committee (and the overall WTO) can be improved. A key issue is *transparency*: the Consumers Association was convinced that “one of the root causes for the lack of progress and consensus on the issues under discussion is the lack of openness and transparency in the WTO”.¹³⁹ This desire for greater transparency was expressed in the evidence from Paul Ekins,¹⁴⁰ the World Wide Fund for Nature (WWF), the Business and Industry Advisory Council to the OECD,¹⁴¹ Oxfam, Friends of the Earth, the Royal Society for the Protection of Birds (RSPB) and Steve Charnovitz, and it was reported that the UN Commission on Sustainable Development has “recognised that there is considerable need for improvement in the areas of transparency, openness, and the active involvement of the public and experts, in relation to work on trade and environment”.¹⁴²

71. There were two basic concerns about transparency: firstly, it was alleged that the WTO meetings are secretive, and secondly, that there is insufficient consultation between the WTO and environmental organisations, particularly non-governmental organisations (NGOs). When examining these allegations, it is necessary to realise that there are three separate types of WTO meetings: the intergovernmental trade negotiations, the deliberations of the Committee on Trade and Environment in Geneva and the decisions of dispute settlement panels. It is only the dispute settlement panels which exclude all observers—intergovernmental organisations such as UNEP and the World Bank are allowed in as observers at all other meetings of the WTO.¹⁴³ The WTO explained that some degree of secrecy is necessary if negotiations are to be conducted successfully: “if you tomorrow allow everybody into your meeting and the people in that meeting do not want those people to be there, they will simply go and meet somewhere else.”¹⁴⁴

72. While UNEP was unhappy with the fact that it could only observe, and not take the floor in, WTO meetings,¹⁴⁵ the non-governmental organisations were aggrieved that they could not attend at all. This, said the WTO, is because “governments take decisions to exclude non-governmental organisations from meetings.... they will continue the old practice, there will be no non-governmental representation... they believe that lobbying should take place at the national level, not at the multilateral level.”¹⁴⁶ The WTO’s main justification for excluding the non-governmental organisations was that “environmental non-governmental organisations are one thing; farmer associations who are absolutely and bitterly opposed to any change in highly protectionist agricultural policies are another. How do you let one in and not the other?”¹⁴⁷ The Royal Society for the Protection of Birds, however, suggested a way around this dilemma by recommending that a distinction be made between citizens’ organisations and business interests.¹⁴⁸

¹³⁹Ev p199

¹⁴⁰Paul Ekins, “Harnessing Trade to Sustainable Development”

¹⁴¹BIAC Statement on International Trade and the Environment

¹⁴²Ev p50

¹⁴³Q166, Q252; Ev p50

¹⁴⁴Q164

¹⁴⁵Q252

¹⁴⁶Q162

¹⁴⁷Q164

¹⁴⁸App 7

73. Friends of the Earth explained how the presence of non-governmental organisations at the WTO meetings could increase the accountability of trade negotiators and provide them with expertise about the environment and sustainable development.¹⁴⁹ The witness from UNEP complimented the non-governmental organisations on their professionalism and the quality of their papers¹⁵⁰ and the European Commission witnesses agreed that the non-governmental organisations have produced some of the best papers on the environment and trade dialogue.¹⁵¹ UNEP therefore recommended that the WTO should follow UNEP's lead in allowing greater involvement of non-governmental organisations: "I will advise them every time to bring (non-governmental organisations) on board."¹⁵²

74. The European Commission supported a fairly limited increase in non-governmental organisation involvement: "we would like to see more possibilities for non-governmental organisations to be able to express themselves, we would like them to be able to get documents... to feed in their expertise more closely;"¹⁵³ whilst at the same time emphasising that "the responsibility for dialogue with non-governmental actors lies primarily at the national level".¹⁵⁴ This reflects the WTO's standpoint that national governments should consult with concerned non-governmental organisations before coming to the WTO meetings.¹⁵⁵ WWF pointed out that if they wished, national governments could include representatives of non-governmental organisations as part of their official delegation without infringing the WTO rules.¹⁵⁶

75. We consider that the WTO has not taken full advantage of the expertise of non-governmental organisations in its deliberations on trade and environment, and suggest that non-governmental organisations with a *bona fide* interest in trade and environment issues be allowed to attend meetings of the Committee on Trade and Environment as observers.

Organisations with responsibility towards the global environment

76. It was mentioned above that the WTO Committee on Trade and Environment *does* consult with intergovernmental organisations such as UNEP and UNCTAD. A large part of our evidence was concerned with the efficacy of these international bodies, and the degree to which they provide a sufficiently authoritative and united voice for the environment in the trade/environment debate.

77. International environmental law takes the form of treaties, conventions and other multilateral agreements which are normally drawn up by governments under the auspices of United Nations agencies or programmes. These same UN agencies are involved in investigating and disseminating information on global environmental problems, and carrying out research into possible solutions. The UN agencies with environmental responsibilities are briefly described below.

The UN Environment Programme (UNEP)

78. UNEP was set up after the Stockholm Conference in 1972¹⁵⁷ (the first global intergovernmental conference on the environment) and its mandate is to "bring environmental issues to the global table".¹⁵⁸ More specifically, it commissions scientific research and acts as a catalyst, bringing together other international bodies¹⁵⁹ to discuss environmental

¹⁴⁹Q377

¹⁵⁰Q265

¹⁵¹Q471

¹⁵²Q267

¹⁵³Q459

¹⁵⁴European Commission Communication on Trade and Environment, February 1996

¹⁵⁵Q162

¹⁵⁶Ev p40

¹⁵⁷Q259

¹⁵⁸Ev p90

¹⁵⁹Q252

problems. In the specific area of trade and the environment, UNEP's work focuses on three policy areas: clarifying the role of science; examining legal questions; and building policy tools to help integrate economic and environmental goals.¹⁶⁰ It is particularly valued for its important work of providing secretariats for the major Multilateral Environmental Agreements,¹⁶¹ and takes some of the credit for the success of the Montreal Protocol.¹⁶² UNEP is also involved in "capacity building", that is seeking to strengthen the ability of the developing countries to participate in trade and environmental debates.¹⁶³

UN Conference on Trade and Development (UNCTAD)

79. UNCTAD's focus is on the impact of environmental measures on trade and sustainable development,¹⁶⁴ and "is the trade forum in which the G77, the developing countries, feel themselves to be most at home".¹⁶⁵ UNCTAD characteristically voices the concern of some poorer governments that environmental measures introduced by the developed world might restrict trade opportunities, and hence hinder economic growth, in developing countries.¹⁶⁶ The organisation mainly carries out research and analytical work, often working in conjunction with other agencies such as the UN Development Programme, UNEP and the OECD.¹⁶⁷ While the unique role of UNCTAD in "bringing on board" the developing countries is appreciated by the European Commission,¹⁶⁸ the Department of the Environment suspected that some duplication of effort might be taking place in terms of its research work.¹⁶⁹

UN Commission on Sustainable Development (UNCSD)

80. The UNCSD is the body which monitors progress in implementing Agenda 21¹⁷⁰ and to which UNEP reports.¹⁷¹ Hans Alders of UNEP explained that UNCSD is a small secretariat which tries to co-ordinate the international sustainable development agenda but is not able to carry out any tasks itself.¹⁷²

OECD

81. The OECD acts as a policy "think tank" on a wide range of issues, and in 1990 set up a Joint Session of Trade and Environment Experts. The OECD received praise for its balanced approach from a wide range of witnesses including UNEP,¹⁷³ Friends of the Earth¹⁷⁴ and the Department of the Environment¹⁷⁵ which commented that the OECD Joint Session of Trade and Environment Experts "has taken theoretical analysis of the links between trade and environment policies a long way."¹⁷⁶ Dan Esty attributed the OECD's success in analysing the issues to the fact that its work on trade and environment has been undertaken by Trade and Environment Directorates in tandem,¹⁷⁷ whereas the WTO is dominated by trade officials.¹⁷⁸

¹⁶⁰Ev p89

¹⁶¹Ev p90

¹⁶²Q32

¹⁶³Ev p86

¹⁶⁴Ev p8

¹⁶⁵Q471

¹⁶⁶App 9

¹⁶⁷*ibid*

¹⁶⁸Q471

¹⁶⁹Ev p8

¹⁷⁰Ev p16

¹⁷¹Q474

¹⁷²Q260

¹⁷³Q254

¹⁷⁴Ev p122

¹⁷⁵Ev p8

¹⁷⁶Ev p15

¹⁷⁷Ev p101

¹⁷⁸Q313

82. The major disadvantage of the OECD is that it only represents the developed countries,¹⁷⁹ although the trade and environment experts do consult with representatives from the Third World.¹⁸⁰

Co-ordination between environmental agencies

83. Our evidence made it clear that there is plenty of dialogue between the bodies mentioned above. For example, the memorandum from UNCTAD describes how UNCTAD collaborates with the UN Development Programme, UNEP, UNCSD, the OECD, the World Trade Organisation and the International Standardisation Organisation.¹⁸¹ It was less clear whether the existence of a range of organisations with different, but overlapping mandates results in an efficient and effective environmental regime, and a number of proposals have been put forward for institutional reform, which will be discussed in the final section of this report.

Policy making at national and European level

84. Within the United Kingdom, trade and environment matters are considered jointly by the Department of Trade and Industry (DTI) and the Department of the Environment (DoE). Since acceding to the Treaty of Rome, the United Kingdom does not have its own policy on international trade but contributes to the overall EU position. Trade and environmental policy is an area of "mixed competence", that is the European Union has an overall policy but Member States also have a say, as they are free to set their own environmental legislation in areas not covered by EU competence.¹⁸²

85. We questioned the Secretary of State for the Environment and Minister for Trade about the nature and quality of policy co-ordination between their two departments. They assured us that they are in constant communication and that they work very closely together to produce a common policy.¹⁸³ Friends of the Earth's impression was that "co-ordination between the Departments has got a lot better...the individuals involved... have a lot of political will to make that co-operation work."¹⁸⁴

86. EU trade policy—including the position which Europe takes in the WTO negotiations on trade and environment—is discussed in the "Article 113 Committee".¹⁸⁵ The DTI takes the lead in United Kingdom delegations to this Committee although DoE officials form part of the delegation when the matters under discussion have environmental implications.¹⁸⁶ When we questioned Government Ministers and officials, they gave no indication that there were any problems with this arrangement.¹⁸⁷ Dan Esty, however, was of the opinion that British "trade and environment" delegations have been weighted in favour of trade. For example, he mentioned that in an OECD Trade and Environment Committee Meeting, "it was my impression that the British Government position was dominated by trade ministry officials and was reflective of the trade principles that I think the trade ministry held as important...."¹⁸⁸

87. The WTO has been criticised for failing to consult environmental organisations, particularly non-governmental organisations, during its deliberations on trade and environment (see above). Its response to this criticism is that governments coming to WTO meetings should already have co-ordinated their trade and environment policies (taking into account the views of environmental lobby groups) and should come to the WTO with a balanced position. "The problem (of co-ordinating trade and environment policy) lies at the

¹⁷⁹Q404

¹⁸⁰Q409

¹⁸¹App 9

¹⁸²Q14

¹⁸³Q767

¹⁸⁴Q349

¹⁸⁵Q4

¹⁸⁶*ibid*

¹⁸⁷Q5; QQ767, 768

¹⁸⁸Q311

level.. of national governments, where trade ministries and environmental ministries have not yet found a way to produce a co-ordinated national position on trade and environment.”¹⁸⁹

88. In the light of the WTO’s attitude to consultation with environmental experts, it is very important that environmental considerations are fully incorporated into the position which the United Kingdom takes to the international fora. **Whilst recognising the significant effort made by the Government to integrate environmental concerns into every area of policy, we remain concerned at reports that United Kingdom delegations to international fora on trade and environment matters are failing to reflect fully the environmental policy objectives of Her Majesty’s Government, and call on the Department of the Environment to increase its input to international trading negotiations.**

89. Within the European Commission, DGXI and DGI work together to formulate trade and environment policy.¹⁹⁰ Both Directorates General go to Geneva to represent the EU in WTO discussions on trade and environment. There was some suggestion that DGI takes the lead on important issues¹⁹¹ but our evidence did not indicate that, in general, the Commission’s position on trade and environment was unbalanced. Margaret Brusasco of DGXI commented that the current system within the EU was starting to work very well: “I think the proof of this is that actually the positions we are taking in the WTO Committee on Trade and Environment are considered by other members of the WTO to be extremely green positions.”¹⁹²

Preparing for Singapore

90. At our request, the Department of the Environment provided us with a full note of the United Kingdom’s objectives for the Singapore WTO Ministerial Meeting in December 1996.¹⁹³ We were concerned to note that the relationship between trade and environmental policy came fairly low on the list of priorities, and that there was some uncertainty as to whether it would be discussed at all. The Secretary of State explained that the agenda for the WTO meeting “is not the British agenda”¹⁹⁴ and expressed confidence that the issue of Multilateral Environmental Agreements would be successfully resolved in Singapore.¹⁹⁵

91. We urge the Government to place “trade and environment” high on its list of priorities for the WTO Ministerial Meeting in Singapore, making every effort to ensure that the relationship between Multilateral Environmental Agreements and the GATT rules is resolved at that meeting.

¹⁸⁹Q231

¹⁹⁰Q455

¹⁹¹Q457

¹⁹²Q458

¹⁹³Ev p36

¹⁹⁴Q773

¹⁹⁵Q775

SECTION 3: TRADE AND SUSTAINABLE DEVELOPMENT

92. Principle 12 of the 1992 Rio Declaration states that countries "should co-operate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries, to better address the principles of environmental degradation." This section of our Report investigates the extent to which the existing pattern of world trade is contributing to the achievement of sustainable development in poorer countries, and looks at possible means of dealing with the market and policy failures which have been responsible for the negative environmental impacts of trade liberalisation.

Trade barriers as a hindrance to sustainable development

93. The WTO recognises that an essential purpose of its work is to facilitate sustainable development:¹⁹⁶ "The goal of sustainable development is stated several times in the WTO Decision on Trade and Environment, and it will act as an important political parameter as well as one of the most challenging technical aspects of the WTO work programme."¹⁹⁷

94. Developing countries depend very heavily on primary commodity exports: the Department of the Environment stated that about half of all developing country exports are in fuels, minerals and other primary commodities¹⁹⁸ and WWF reported that only South-East Asia has diversified significantly into manufacturing: primary commodities still account for the majority of export earnings in Latin America (67 per cent), West Asia (84 per cent) and SubSaharan Africa (92 per cent).¹⁹⁹ In spite of the efforts of the GATT and WTO over the last fifty years to eliminate unfair protectionism, we received evidence from WWF that, because of subsidies and tariff structures in Europe and the US, the terms of trade in primary commodities are disadvantageous to the majority of developing countries.

Agricultural subsidies

95. The OECD reported that agricultural subsidies are "quite massive, as they represent, spent, US\$350 billion, for all OECD countries."²⁰⁰ WWF described how these subsidies depress world food prices, with the result that farmers in developing countries receive a low price for their products and as a result, do not have the necessary resources to invest in sustainable production methods.²⁰¹

96. During the Uruguay Round, some progress was made towards liberalising trade in agricultural products.²⁰² However, it is generally recognised that there is still a long way to go. Margaret Brusasco of the European Commission admitted that the Common Agricultural Policy is in need of further reform, but "it is a very big liner and it will take a very long time to stop it, let alone turn it around."²⁰³ Mrs Brusasco expressed her hope that "we will all be able to work together in WTO ... to make sure that harmful subsidies will be little by little eliminated".²⁰⁴

97. While most of the evidence emphasised the benefits of removing agricultural subsidies, the Country Landowners Association put in a plea for their retention, and indeed for additional protection for European agriculture in the form of tariffs, import quotas, etc. Their stated reason for this was that "any further significant changes in the Common Agricultural Policy involving a reduction in support for production will have a major impact on the environmental management of the countryside."²⁰⁵ Both WWF²⁰⁶ and the OECD pointed

¹⁹⁶ See the Preamble to the WTO Constituent Instrument

¹⁹⁷ Ev p67

¹⁹⁸ Ev p12

¹⁹⁹ WWF, "South-North Terms of Trade, Environmental Protection and Sustainable Development"

²⁰⁰ Q450

²⁰¹ WWF, "Agriculture in the Uruguay Round"

²⁰² Ev p72

²⁰³ Q478

²⁰⁴ *ibid*

²⁰⁵ Country Landowners Association (Ev not printed)

out that subsidies paid to farmers in Europe increase the profitability of intensive farming, which, because of its reliance on heavy applications of pesticides and fertiliser is a major cause of environmental degradation.²⁰⁷ However, in mountain areas, where the characteristic landscape and ecology is maintained by traditional (and uneconomic) farming methods, there is a genuine environmental case for retaining subsidies, and the OECD and European Commission were both concerned that mountain farmers should continue to receive support.²⁰⁸

Tariff escalation

98. Tariff escalation is the practice of imposing lower import tariffs on raw materials than on finished or semi-finished products. Developing countries have argued that tariff escalation can exacerbate environmental pressures on them by making it harder for natural resource exporters to add value to their exports by undertaking more domestic processing.²⁰⁹ This has been a particular problem in the tropical timber industry: Oxfam reported that "Japan and the EU, for instance, both impose a higher tariff on plywood than on logs. The aim, in both cases, is to protect powerful domestic timber industries. The effect is to increase environmental degradation in exporting countries, since logs have a lower unit value than plywood, and more therefore have to be exported to generate the same amount of foreign exchange."²¹⁰ This concern was shared by the WWF, who pointed out that only one percent of timber harvested annually is produced on a sustainable basis and concluded that because of the low prices received for timber, the pressure to "externalise" environmental costs is increasing rather than decreasing.²¹¹

99. While the WTO has concluded that the trade impact of tariff escalation may be most pronounced in goods using products based on natural resources (such as wood) and in textiles and clothing, at the same time it emphasised that "the relationship between tariff escalation and the environment is likely to be complex."²¹² Tariff escalation did not seem to be a problem for the Malaysian timber industry: we learned from the Forest Research Institute of Malaysia that only a fifth of the country's timber export income derives from logs, as Malaysia has successfully developed its wood processing industry and now concentrates on exporting furniture and other wood products.²¹³

Positive initiatives

100. Both the Department of the Environment and the European Commission described ways in which they are seeking to improve the terms of trade for developing countries. For example, the European Community's Generalised System of Preferences (GSP) aims to increase the export earnings of developing countries, to promote their economic development and to accelerate their rate of economic growth by allowing their products access to EC markets at preferential rates of duty.²¹⁴ Preferential market access is provided to African, Caribbean and Pacific countries under the Lomé agreement,²¹⁵ with a special extra tariff concession for countries which have environmentally sound policies and products.²¹⁶ The Royal Society for the Protection of Birds felt that this has not gone far enough, commenting that "the GSP regulation contains inadequate environmental provisions to allow the Commission to intervene in GSP trade situations that threaten biodiversity."²¹⁷ Whilst we have received evidence that positive measures have been introduced by the European

²⁰⁶WWF, "Agriculture in the Uruguay Round"

²⁰⁷Q450

²⁰⁸QQ450, 478

²⁰⁹Ev p12

²¹⁰Ev p43

²¹¹WWF, "South-North Terms of Trade, Environmental Protection and Sustainable Development"

²¹²Ev p 210

²¹³Annex I

²¹⁴Ev p13

²¹⁵*ibid*

²¹⁶Q465

²¹⁷App 7

Community to improve the terms of trade for developing countries and to encourage the export of sustainably-produced goods, there is still scope for improvement. We recommend that at the next review of the agricultural element of the Generalised System of Preferences, action is taken to ensure that the income received by developing countries is better targeted towards sustainable production.

The economic consequences of trade liberalisation

101. Whilst there is agreement that protectionist subsidies have a negative effect both on economic growth and on the environment, the effects of trade liberalisation are far more difficult to categorise. On the global scale, there is evidence that the WTO's efforts are increasing prosperity. A 1994 study by the WTO estimated that by 2005, incomes of developing and transition economies (excluding China and Taiwan) will be some \$116 billion a year higher as a result of the Uruguay Round. However, these benefits will not be evenly distributed: newly industrialised countries in Asia stand to gain most, and sub-Saharan Africa least.²¹⁸ In fact, "on the basis of the World Trade Organisation's own estimates and also figures from the World Bank and the OECD, sub-Saharan Africa is actually a net loser as a result of the Uruguay Round".²¹⁹

102. Income from trade may also be unevenly distributed within a country: this is the case in Thailand, where the disparity in incomes between rural and urban areas has led to an influx of workers into the cities with the resultant growth of shanties and slums.²²⁰ Oxfam suggested that women may lose out from trade liberalisation, as they are often employed in the "informal"—subsistence—sector of the economy which is likely to decline as resources are diverted into the "formal" cash-based economy.²²¹ Indigenous peoples may also be "losers" as their traditional lifestyle is threatened by commercial activity: in the words of the Apikan Indigenous Network, "the historical experience of indigenous peoples has been that trade had only negative consequences for their communities."²²² Dr R G Williamson, a Canadian Professor of anthropology, described how the Inuit's traditional lifestyle, characterised by a harmonious and sustainable relationship with their environment, has been eroded by the commercial fur trade, an important source of income for Canada as a whole.²²³

Forced to trade?

103. Friends of the Earth were concerned that some developing countries, rather than entering into international trade because of the benefits it would bring, are in fact "forced to trade". They told us that "there are a number of different reasons why countries are involved in international trade when they might not want to be. I think the main reason actually is the problems that a number of developing countries have with debt. There are around 40 countries that are severely indebted, some of them up to half of their GNP goes on servicing debts, and in order to borrow money, to carry on with their economy and to pay off those debts, they are forced to undertake activities which generate foreign currency".²²⁴ This leads on to much wider questions about third world debt and the appropriateness of some development strategies which are beyond the scope of this Report: however, it is important to note that indebtedness and the conditions of Structural Readjustment Programmes (rather than the process of trade liberalisation) may well be the fundamental reasons for a switch to export-orientated agriculture which, as the following paragraphs indicate, can have damaging effects on the environment.

104. The non-governmental organisations presented us with many case studies of

²¹⁸Ev p12

²¹⁹Q63

²²⁰Thailand Environment Institute, "Trade and the Environment in Thailand"

²²¹Q63

²²²Apikan Indigenous Network (Ev not printed)

²²³Professor R G Williamson (Ev not printed)

²²⁴Q355

environmental degradation being linked to the opening of markets. On the other hand, the World Bank, UNCTAD and International Monetary Fund cited examples where trade liberalisation has brought about environmental improvements. The following subsections examine the environmental impact of trade liberalisation through its effects on agriculture, industry and infrastructure development.

Trade liberalisation and agriculture

105. While the social and environmental consequences of trade liberalisation may vary from country to country, it always has the effect of causing the export sector to expand.²²⁵ Non-governmental organisations such as WWF, Oxfam, Friends of the Earth and the Royal Society for the Protection of Birds were all able to provide detailed examples of how the commercialisation of agriculture can have a detrimental effect on the environment of a developing country. In countries such as Uruguay the cultivation of soybeans for sale to the EU as animal feed has resulted in deforestation and environmental contamination by pesticides.²²⁶ The EU market for animal feed also prompted Thailand's switch from rice to cassava cultivation, with resultant deforestation, soil erosion and landslides.²²⁷ In South-east Asia, the growing demand for seafood in the US, Japan and Europe has led to a dramatic expansion of commercial prawn farming. During our visit to Thailand we learned how mangrove swamps were cleared to make way for prawn farms, removing an important sea defence and destroying the breeding grounds for fish. The effluent and organic waste from the prawn ponds is a significant source of pollution and causes further depletion of fish stocks.²²⁸ Our evidence contained many other examples of environmentally-damaging commercial agriculture; for example, banana production in Latin America,²²⁹ fruit growing in Chile,²³⁰ and cattle farming in Argentina.²³¹ The case study of frogs in Bangladesh is an interesting example of how the exploitation of an export opportunity can lead not only to environmental damage but also to economic loss.

106. The commercialisation of agriculture can have serious consequences for wildlife. The Royal Society for the Protection of Birds warned that "regional specialisation and intensification have been among the main causes of losses of species and habitats dependent on farmland". In Japan, for example, the reduction in land area used for rice growing has resulted in a loss of habitats for waterfowl, while at the same time Japanese companies are draining wetlands in Uruguay for rice cultivation.²³²

Loss of food security

107. The replacement of subsistence agriculture by cash cropping can lead to a reduction in local food supplies. The Sustainable Agriculture, Food and Environment (SAFE) Alliance warned that "the food security of developing countries may be under threat where large tracts of good agricultural land are used for the production of export crops: Brazil is the third largest agro-exporter in the world, but two out of three Brazilians do not have enough to eat."²³³

108. Once import barriers have been removed as a result of WTO negotiations or the creation of regional free trade areas, some countries find that their home-grown food crops can no longer compete with imports. This has been the case in Mexico, where local maize, grown using environmentally sustainable techniques, cannot compete with intensively-cultivated United States imports.²³⁴ If a country becomes dependent on imports, it runs the

²²⁵ App 10

²²⁶ Ev p117

²²⁷ App 2

²²⁸ Annex I

²²⁹ Ev p48

²³⁰ Ev p49

²³¹ App 7

²³² *ibid*

²³³ App 8

²³⁴ Q82; WWF, "Agriculture in the Uruguay Round"

Frogs' Legs from Bangladesh

During the 1970s and 1980s Bangladesh substantially increased its exports of frogs' legs to industrialised countries. By 1988, Bangladesh was exporting more than 50 million frogs a year, mostly to the United States and Europe, and by 1989 there had been a serious decline in the frog population.

Fewer than 50 frogs can keep an acre of paddy field largely free of insects; it is thought likely that they help to control malaria and other water-borne diseases; and they provide fine organic fertiliser. As the frog population dropped, these controls began to disappear and farmers resorted to imported pesticides. By 1989, Bangladesh had increased its pesticide imports by 25 per cent per year. In fact, government figures showed that the country was spending \$30 million a year on pesticides, but earning only \$10 million a year from the frogs' legs trade. Only one group was found to benefit from this situation—the companies involved in international trade in and out of Bangladesh. As it happens, the same companies were exporting the frogs' legs and importing the pesticides.

At this point, the Institute for Environment and Development Studies successfully lobbied the Bangladeshi government to ban the export of frogs' legs. Within a year of the ban, Bangladesh's pesticide imports had declined by 30-40 per cent and the frog numbers had started to increase. It now seems that the trade has been transferred to Indonesia.

Source: *Friends of the Earth*

Box 4

risk that, if world prices rise, it will no longer be able to obtain all the food it needs.²³⁵

109. Concerns about habitat protection and food security have led to calls that developing countries should be allowed to retain import barriers in order to protect their traditional agriculture. WWF considers that the Uruguay Round agreement is a failure because it does not distinguish between those subsidies causing overproduction and those whose purpose is food security.²³⁶ The GATT does in fact contain a food security exemption²³⁷ but this has only been used in a limited number of cases—perhaps because the governments of developing countries consider it more important to provide cheap imported food for the urban population than to help their farmers.²³⁸

Beneficial effects of trade liberalisation on agriculture

110. Information from the World Bank demonstrated that a switch from subsistence to commercial production need not have adverse effects on the environment. The World Bank quoted a 1995 study which shows that "trade liberalization would reduce soil erosion and consequent water pollution in the Philippines by shifting resources away from import-competing annual crops like upland rice to export-oriented tree crops, where soil erosion rates are lower by a factor of five to ten".²³⁹ Similarly, many African export crops cause much less erosion than food crops such as cassava (see the case study in Box 5). This finding is, however, qualified by evidence from West Africa suggesting that, contrary to popular belief, forest cover and soil fertility have been increasing as *subsistence* agriculture spreads.²⁴⁰

²³⁵ *Op cit*

²³⁶ WWF, *op cit*

²³⁷ Q81

²³⁸ Q82

²³⁹ App 10

²⁴⁰ Parliamentary Office of Science and Technology (not printed)

African Export Crops Benefit Soils

In West Africa, commercial tree and bush crops are grown with grasses, and erosion rates are two to three times less than similar areas planted for locally used food crops such as cassava, yams, maize, sorghum and millet. In Malawi, adjustment was found to have led to changes in product mix and production intensity instead of changes in cultivated areas or production techniques. Soil improving crops were adopted and agricultural intensification helped absorb a rapidly growing population on less land. Also, contrary to popular belief, export crop expansion has *not* generally occurred at the cost of reduced food crop output, with subsequent potentially negative social and environmental effects.

Source: World Bank Environment Paper No. 10 "Economywide Policies and the Environment"

Box 5

111. In fact, the World Bank was the only organisation to provide us with case studies illustrating the beneficial effect of trade liberalisation on Third World agriculture: all the other case studies demonstrated the opposite.²⁴¹ **From the evidence provided, we conclude that, as yet, trade liberalisation has not had a significant positive impact on the environmental sustainability of Third World agriculture and in many cases has played a part in the spread of unsustainable farming methods.**

112. However, a number of witnesses, including the Department of the Environment,²⁴² OECD²⁴³ and the Economy and Environment Programme for South-East Asia²⁴⁴ pointed out that trade is not the root cause of the environmental problems described. The DoE related how OECD research on the effects of trade on the environment, based on sector studies on agriculture, fisheries, transport and endangered species, demonstrated that "in most sectors, the direct effects of trade are small, largely because only a small share of environmentally-sensitive goods enters into trade and because trade is but one of many factors affecting the environment."²⁴⁵ This conclusion is borne out by the general observation that environmental problems occur both where there is economic growth (as in Thailand) and where there is stagnation (as in sub-Saharan Africa), where there is an open market (as in Mexico) and where there is protectionism (as in the former Communist countries).²⁴⁶

113. As discussed in Section 1 of this Report, environmental problems are really due to market and intervention failures. "Market failures stem from deficiencies in the market's ability to properly value and allocate environmental resources and the failure to internalise environmental costs in the price of goods and services. Intervention failures occur when government policies (environmental, trade and other types of policies) do not correct for, create or exacerbate market failures."²⁴⁷ The final part of this section will examine the different options available for correcting these market failures.

²⁴¹ See list of cases at Annex VII

²⁴² Ev p12

²⁴³ Ev p14

²⁴⁴ Annex I

²⁴⁵ Ev p14

²⁴⁶ David Glover, EEPSEA (Annex I)

²⁴⁷ Ev p14

The impact of trade liberalisation on industrial development

114. The World Bank states that "it is impossible to generalise about the effects of liberalisation since this depends heavily upon something that varies from country to country—whether the industries that expand following liberalization are more environmentally damaging than those that contract."²⁴⁸ The following paragraphs seek to determine whether the expansion of industries linked to trade liberalisation has, in general, been beneficial or detrimental to the local environment in developing countries.

Multinational companies

115. As a result of the WTO's trade liberalisation work, multinational companies are free to invest and locate in almost any country they choose.²⁴⁹ This has led to fears that polluting industries will move to areas where environmental regulation is lax, and that developing countries will deliberately keep their standards low in order to attract investment—the concept of "pollution havens".²⁵⁰ The evidence presented to us during this Inquiry lent very little support to this hypothesis. Neither the OECD²⁵¹ nor the World Business Council for Sustainable Development²⁵² found evidence that footloose industries are migrating in order to take advantage of low environmental standards: instead, several World Bank studies have confirmed that industries are much cleaner in developing countries with open trade policies than in those with closed trade regimes.²⁵³ The World Business Council for Sustainable Development has presented a number of case studies which show how multinationals around the world are operating to high standards and having a positive influence on the surrounding environment: for example, Procter and Gamble in Mariscala, Mexico has eliminated 70 million pounds a year of hazardous waste from a previous operation and has provided water and sanitation for local houses.²⁵⁴

116. According to the International Monetary Fund, environment costs are only a small proportion—normally no greater than 1.85 per cent—of industry's costs. Environmental compliance is most costly for the chemical industry, for which environmental expenditure represents three per cent of total costs²⁵⁵ (rising to 20 per cent in Germany).²⁵⁶ We therefore questioned ICI, one of the world's largest chemical companies, about the environmental standards of its overseas plants and were told that all its new plants are built to the highest international standards, regardless of where they are located. For example, the ICI systems house for polyurethanes in Shanghai has as high a standard as any systems house anywhere in the world.²⁵⁷

117. Our visit to the Far East provided us with further evidence that the migration of multinationals is not, in general, having a deleterious effect on the environment. A group of British businessmen in Singapore told us that it is cheap labour, rather than environmental laxity, which attracts multinationals and this was confirmed by our visit to the Laem Chabang industrial estate in Thailand: the manager of Maxtor (a manufacturer of disc drive components) revealed that his company had moved from Singapore to Thailand because of the cheaper labour but still operates to the same environmental standards as its American parent company.

118. There are, however, some exceptions to this general rule. WWF mentioned that the mineral processing and petrochemicals industries have particularly high environmental

²⁴⁸ App 10

²⁴⁹ The Body Shop (Ev not printed)

²⁵⁰ Ev p14

²⁵¹ OECD "Report on Trade and Environment", 1995

²⁵² WBCSD, "Trade and Environment: a Business Perspective".

²⁵³ App 10

²⁵⁴ WBCSD, "Trade and Environment: a Business Perspective"

²⁵⁵ Subramanian, A and Uimonen, P, "Trade and the Environment"

²⁵⁶ Q115

²⁵⁷ Q528

costs²⁵⁸ and we received some disturbing evidence of the environmental damage caused by oil exploitation and mining, such as the report of serious oil pollution in Ecuador summarised in Box 6. BP's evidence revealed a more positive side to the oil industry: in Azerbaijan, for example, the oil companies have worked with the Azeri government to establish environmental standards which conform to an international baseline for offshore development.²⁵⁹

Oil Pollution in the Oriente Region of Ecuador

The Oriente region of Ecuador boasts tropical rain forests which are among the most biologically diverse in the world and is home to between 85,000 and 250,000 indigenous people who depend on the forest for their culture and livelihood. However, since commercial quantities of oil were discovered by Texaco in 1967, oil companies—including Texaco, Conoco and other multinationals—have extracted almost 1.5 billion barrels of oil. As of 1991, oil development was underway or planned in every protected area of the Oriente. Ecuador's \$12.4 billion debt and economic dependence on both oil and the necessary foreign capital technology for production provide tremendous pressure for continued oil extraction.

The resulting environmental damage has been severe. Oil companies deposited toxic waste from exploratory wells in unlined pits, causing water and soil contamination which eventually found its way into the food chain. Nineteen billion gallons of toxic brine have been dumped untreated into the Oriente's water and soil. Spills and road construction associated with oil transportation have resulted in additional damage: pipelines were constructed above ground, often crossing streams in a seismically active region, and the Ecuadorian government has recorded a total estimated loss of 16.8 million gallons of oil (as compared to 10.8 million gallons spilled by the Exxon Valdez incident). No equipment exists in the Oriente to clean spills.

As a result of oil contamination, samples of drinking, bathing and fishing water collected in communities near oil facilities contained toxic compound levels at 10 to 1000 times the levels permitted by the US Environmental Protection Agency. When companies burn oil slicks, rainfall transports the black ash to the surrounding area, resulting in skin rashes and fish and cattle death. In addition to these harms, oil company road construction caused deforestation and habitat destruction: oil companies and settlers together currently cut down about 2.4 percent of the country's rainforest per year.

Ecuador and Texaco signed an agreement in May 1995 for payment for environmental damages to the Huaorani people. This agreement still needs to be implemented. Texaco and Conoco have now withdrawn from the region but the "threat of future enterprises looms large".

Source: Hari Osofsky, Yale Law School/ Yale School of Forestry and Environmental Studies (Global Environment and Trade Study)

Box 6

Both Hari Osofsky of the Global Environment and Trade Study²⁶⁰ and the Body Shop described the environmental problems associated with Shell's operations in Ogoniland, Nigeria. The Body Shop also identified mines in Indonesia and the Pacific which had been responsible for environmental damage and subsequent conflicts with local people.²⁶¹ According to an article in the *New Scientist*, many groups in developing countries are

²⁵⁸Q114

²⁵⁹BP (Ev not printed)

²⁶⁰Hari Osofsky (Ev not printed)

²⁶¹The Body Shop (Ev not printed)

particularly concerned about the spraying of gold ore with cyanide solution, a process which can result in the contamination of rivers by cyanide and by heavy metals from the ore.²⁶² However, the minerals giant RTZ claimed that "the costs of changing mining and processing methods to meet tightening standards usually greatly exceed the costs of achieving, or preferably exceeding the tightest known standards from the outset. For these reasons, mining companies like RTZ are not influenced by the relative severity of environmental regulations when choosing where to invest."²⁶³

119. In general, multinational corporations appear to be operating to high environmental standards worldwide. However, we are concerned that some industries have been responsible for serious environmental damage in some developing countries. We call upon all industries to establish and enforce consistent international standards for all their operations, so that the environmental impact of oil, mineral and other material extraction in developing countries is no worse than that in developed countries.

Local industries

120. While multinational companies generally operate to high standards in developing countries, this is often not the case for local industries. At Laem Chabang in Thailand we heard how small, polluting industries such as lead smelting would go out of business if national environmental legislation were enforced.²⁶⁴ Oxfam described how heavily polluting industries have grown up in the border region of Mexico, taking advantage of the opportunity to export to the USA: this region is so polluted that one commentator described it as "a facsimile of hell on earth."²⁶⁵ Although this kind of industrial development is not a direct consequence of trade liberalisation, it accompanies economic growth and it remains the case that many manufacturing industries in countries like Thailand and Malaysia are producing primarily for export.²⁶⁶ It should also be noted that in Malaysia, for example, national legislation discourages inward investment by multinationals unless they are participating in a joint venture with a locally owned company.²⁶⁷

121. The Department of the Environment claimed that "countries differ in their capacity to absorb environmental impacts and in the value which they place on environmental protection. They should be allowed to set their own interpretation of sustainable development and their own environmental standards, except where they relate to global or transboundary environmental effects."²⁶⁸ In reality, developing countries like Thailand often base their own environmental standards on United States or European legislation. However, low standards of industrial pollution control persist because poorer countries cannot afford the resources necessary for proper enforcement: we found that this was the case in both Thailand and Malaysia.²⁶⁹

122. On the positive side, we received evidence that for some industries, exposure to international competition is pushing up environmental standards. The Regional Institute for Environmental Technology in Singapore explained how some industries in South-east Asia are suddenly being transformed from "very dirty" to "very clean" as they seek to compete in European markets. Companies in Singapore and Malaysia have shown a great deal of interest in the new international environmental management standard, ISO14001, which they hope will give their products the "green" credentials expected by environmentally aware purchasers in the West. Although ISO14001 has been criticised as a low or dilute standard, it requires companies to comply with their national legislation which, as mentioned above, is the same in many developing countries as in the US.²⁷⁰ The ISO standard will be discussed in greater

²⁶²New Scientist, 11 May 1996

²⁶³RTZ (Ev not printed)

²⁶⁴Annex I

²⁶⁵Ev p46

²⁶⁶Thailand Environment Institute, "Trade and the Environment in Thailand"

²⁶⁷Annex I

²⁶⁸Ev p3

²⁶⁹Annex I

²⁷⁰Annex I

detail in Section 4 of this Report.

123. While international trade liberalisation has not, in general, led to increased pollution by multinationals, there is evidence that it has fostered the growth of small scale, local, polluting industries in some developing countries. This raises questions of whether developed countries should use trade measures to promote cleaner industries in the developing world; whether minimum international environmental standards should be established; or whether free market mechanisms, voluntary initiatives and resource transfers are a more appropriate way of dealing with the problem. These questions will be considered below and in Section 4 of this Report.

Trade liberalisation and infrastructure development

Transport projects

124. In order to take advantage of a liberalised trading system, developing countries have invested in new infrastructure such as roads, canals and ports. Such development can have a very damaging effect on the local environment: for example, Friends of the Earth described how the construction of the Hidrovia canal, to aid trade between Brazil, Paraguay, Uruguay and Argentina, has disrupted local wetland ecosystems and increased water pollution.²⁷¹ During our stay in Malaysia we visited Westport, a major new container port which it is hoped will capture some of Singapore's ever-increasing trade. Ecologically important mangrove swamps had been destroyed to make way for the port, but this was seen as a necessary price of development.²⁷²

General effects of economic growth

125. Whilst this kind of development tends to have a negative environmental impact, the example of Singapore shows how income gained from trade can be invested in improved water supplies, sanitation and air pollution controls. World Bank research has produced the following general conclusion about the impact of economic growth on the environment:

"Access to safe water and to sanitation increase very rapidly with income. Pollutants such as airborne particulate matter and sulfur dioxide, which blight the local environment in many cities in the developing world, increase at low incomes but fall rapidly thereafter—as pollution policies are implemented more effectively, and the economy shifts increasingly from manufactures to services. Municipal wastes per capita increase with incomes, but the resulting pollution problems are typically more readily managed in higher income cities. Only carbon dioxide emissions, for which environmental concerns are global rather than national, have continued to rise rapidly with increasing incomes."²⁷³

126. If the above is true, Thailand and Malaysia must still fall into the "low income" category. Although both these countries are undergoing very rapid economic growth, air pollution remains a problem, particularly in Bangkok where "a dramatic increase in the number of private automobiles has led to air pollution at rates up to 5-6 times WHO standards".²⁷⁴ Neither has the growth of Bangkok resulted in waste being "more readily managed": because of the lack of waste disposal facilities, factories are obliged to store hazardous wastes on their own premises.²⁷⁵ However, the Thai government recognises these problems and is seeking to tackle them as resources become available.

127. In the case of Singapore, the economic development brought about by trade has led to a marked improvement in the quality of the urban environment—there are even tropical climbing plants on the flyovers — but very little is left of its natural ecosystems. The only remaining primary rainforest in Singapore is a small patch in the Botanical Gardens. This illustrates how different concepts of "sustainability" will colour any conclusions drawn about

²⁷¹Ev p117

²⁷²Annex I

²⁷³App 10

²⁷⁴Thailand Environment Institute, "Trade and the Environment in Thailand"

²⁷⁵Annex I

whether trade liberalisation has had a positive or negative impact on the environment. Friends of the Earth makes the provocative suggestion that:

“current international trade and environment negotiations are based upon the false assumption that environmental standards are higher in richer countries than in poorer ones. In fact, richer countries can be described as being ‘greener’, since they have generally achieved low levels of pollution per GDP, but they are increasingly less *sustainable*, since pressure on natural resources and the environment’s capacity to absorb pollution, is already extremely high and continues to rise.”²⁷⁶

How can environmental costs be internalised in developing countries?

128. As Section 1 explained (para 37), the theoretical answer to environmental degradation is cost internalisation. WWF was of the opinion that “free trade would be a good thing for the environment if the price of traded goods reflects the environmental and resource cost of their production, transport, use and disposal; that is not the case we have now.”²⁷⁷ For example, the prices charged by Japanese companies to consumers for shrimps do not reflect the enormous costs to local communities of lost fish stocks, reduced soil fertility caused by salination, or the associated loss of livelihoods.²⁷⁸

129. Whilst the need to internalise environmental costs is widely acknowledged, it is very difficult to achieve in practice. Dan Esty identifies some of the obstacles to making the “polluter pay” for environmental damage: “valuation controversies are inevitable in the face of substantial scientific and risk uncertainties, variations in political priorities and judgements, and differences based on geography and level of development.”²⁷⁹ He points out how “ecological problems are characterised by threshold effects; time lags between emission and detection; biological, chemical and physical interactions that are not well understood; and sometimes substantial scientific uncertainties over the source, scope and magnitude of public health or habitat damage.”²⁸⁰ It is also very difficult to put a price on environmental harm that will occur in the future: the traditional “discount rate analysis” employed by economists places a lower value on future burdens than those which arise in the present, leading some environmentalists to fear that society is not setting aside sufficient resources to pay for future cleanups, and that we are “leaving unfunded environmental liabilities to our progeny”.²⁸¹

130. On the specific issue of threats to wildlife from agricultural specialisation, the Royal Society for the Protection of Birds was even more pessimistic: “We are very sceptical about the prospect of there being proper internalisation of the value of biodiversity in commodity prices. Even if a methodology for doing so were available, major problems remain, not least that values can only be internalised through mechanisms which Governments would need to put in place, such as taxes, etc.”²⁸²

131. Furthermore, developing countries may not recognise the importance of cost internalisation. Friends of the Earth makes the point that “in poorer countries, the principal short term concern is maximising revenues by increasing exports”²⁸³ and the primary concern of developing country governments within the WTO is to increase market access.²⁸⁴

132. In spite of this pessimism, various market based instruments and policy tools have been suggested as possible means of making international trade work in favour of sustainable development.

²⁷⁶Ev p120 para 2.15.2

²⁷⁷Q63

²⁷⁸Ev p47

²⁷⁹Dan Esty, “Greening the GATT”

²⁸⁰*op cit*

²⁸¹*op cit*

²⁸²App 7

²⁸³Ev p118

²⁸⁴Ev p11

Trade-based means of cost internalisation

133. Oxfam suggested that, in order to ensure that commodity prices reflect their true environmental costs, governments in the developed world could impose consumption taxes or import levies on unsustainably produced materials, or could even prohibit imports.²⁸⁵ Because the WTO does not allow such taxes and prohibitions, Oxfam thinks that the WTO rules should be reformed.²⁸⁶ However, there is evidence that if import bans were allowed, they would not be an effective means of tackling the underlying causes of environmental problems. David Glover of the Economy and Environment Programme for South-East Asia explained how a European ban on tropical timber imports would affect only four per cent of all the timber logged: the rest is cleared either for local use, for sale to other developing countries, or to make way for agriculture.²⁸⁷ Similarly, Richard Eglin of the WTO commented that “I can think of precious few situations in which imposing a trade restriction will revalue an environmental resource; on the contrary, it is more likely to devalue it.”²⁸⁸

INTERNATIONAL COMMODITY RELATED ENVIRONMENTAL AGREEMENTS

134. A less trade-restrictive way of assigning a more realistic value to developing country exports would be the fixing of commodity prices to reflect the full cost of their production. One of the fundamental problems with the trade in commodities, highlighted by WWF, is the fact that many developing countries have little control over the prices of their commodity exports: “many of these countries only have five or ten per cent of the market share of commodities; as such, they are price-takers, not price-makers, they take whatever price the market gives them and it leaves them little room to internalise costs. There is cut-throat competition between developing countries, which is destroying their environments, to supplying all the markets.”²⁸⁹

135. Both Oxfam and Friends of the Earth presented proposals for International Commodity Related Environmental Agreements. These would be basically voluntary agreements and could take one of two forms: either the producers would agree together on a higher price for a particular commodity; or the importers would impose an import levy which would then be refunded to the producers for investment in more sustainable production techniques.²⁹⁰ UNCTAD has identified rubber and cocoa as potential candidates for ICREAs.²⁹¹

136. However, the United Kingdom Government “is not convinced of the value of market intervention measures which are designed to support prices artificially and supports the phasing out of commodity agreements.”²⁹² The Secretary of State, when asked why the Government is not in favour of consumer taxes on commodities, expressed his preference for alternative approaches.²⁹³ When asked to elaborate, the Department of the Environment outlined the potential problems which could arise. With the first type of ICREA (where producers agree on a fixed price for a commodity, and set minimum environmental standards) it might be difficult to persuade all developing countries to sign up, and the issue of ensuring compliance with uniform environmental standards would have to be addressed. The DoE’s main reservation about the second type of ICREA—which would seek to transfer funds from consumers to producers—concerned the feasibility of an international mechanism for transferring revenues, and whether such a mechanism could be successful in securing environmental improvements.²⁹⁴

137. The Consumers Association thought that the idea of making the “consumer pay” by imposing an import levy on commodities like coffee was “far-fetched”. They pointed out how

²⁸⁵Ev p47

²⁸⁶*ibid*

²⁸⁷Annex I

²⁸⁸Q173

²⁸⁹Q80

²⁹⁰Q85

²⁹¹Q87

²⁹²Ev p12 para 73

²⁹³QQ812,813

²⁹⁴Ev p231

difficult it would be to ensure that the levy was being funnelled back into environmental improvements²⁹⁵ and were also concerned about the impact of price increases on poorer British consumers.²⁹⁶ Oxfam reflected that the first of these obstacles could be overcome through a system of verification, similar in concept to the Forest Stewardship Council scheme (see paras 225-229 below).

138. We recommend that the Government give careful consideration to carrying out research into ICREAs and their efficacy.

139. Taking the principle of import levies a step further, environmental non-governmental organisations such as Oxfam have suggested that a “green tax” could be placed on all international trade transactions, and the proceeds funnelled back to environmental projects in developing countries.²⁹⁷ However, our evidence did not furnish any encouragement that this would receive the necessary political support.

PUTTING A PRICE ON ENVIRONMENTAL SERVICES

140. Another way in which trading relationships could be employed to internalise environmental costs is the pricing of “environmental services”. So, for example, developed countries could pay forested developing countries for the service of carbon dioxide absorption: David Glover of the Economy and Environment Programme for South-East Asia described how two American electricity generators are already contributing towards the preservation of rainforests in Costa Rica and Sabah. The WTO had a positive attitude to this kind of measure²⁹⁸ but when we raised the issue with the Malaysian Minister of Primary Commodities²⁹⁹ he was rather suspicious of the concept and did not think it to be practicable.

Minimum environmental standards

141. Oxfam used the example of environmentally-damaging fruit cultivation in Chile to make the case for international environmental standards. “The Chilean government is resisting pressure to enact stronger environmental regulations, or to enforce existing pesticide laws, for fear of losing both foreign investment and competitive advantage. International regulations obliging Chile and its competitors to adopt minimum environmental standards would help resolve this tension.”³⁰⁰ From Oxfam’s perspective, “unacceptably low environmental standards are not a source of legitimate comparative advantage, but a form of exploitation which creates unfair competition.”³⁰¹ Mandatory international standards would, it is thought, force producers to internalise their environmental costs.

142. The introduction of international *regulations*, as suggested by Oxfam, could not be achieved without a much more powerful global environmental regime. At present, the only international standards are the voluntary ones drawn up by the International Standardisation Organisation (ISO).³⁰² However, developed countries could impose their environmental standards on other countries by introducing unilateral trade restrictions based on processes and production methods. This is not allowed under WTO rules and is strongly opposed by developing countries such as Singapore and Malaysia. The desirability of introducing mandatory and voluntary standards based on processes and production methods will be considered further in Section 4.

143. UNCTAD, in support of the developing countries, denied that they keep their standards low so as to retain a competitive advantage: “strategic policies aimed at obtaining short-term economic benefits by deliberately setting standards at an artificially low level, or

²⁹⁵ Q759

²⁹⁶ Q761

²⁹⁷ Q97

²⁹⁸ Q187

²⁹⁹ Annex I

³⁰⁰ Ev p49 para 5.5

³⁰¹ Ev p42

³⁰² Ev p17

not enforcing them, are unlikely to be practised on any rational grounds, since maintaining lax environmental standards and enforcement may entail greater costs in abatement, resource degradation and depletion in the future".³⁰³ The main reason why standards are low in developing countries is that they lack the resources to improve their environmental performance: as the British Importers Association pointed out, one of the chief causes of environmental degradation is poverty.³⁰⁴

The need for resource transfer

144. Whilst economists might argue that the process of economic growth will eventually raise environmental standards to a satisfactory level in developing countries, it is clear that even in countries like Malaysia where standards are improving, this is a long term process. If developing countries are to raise their standards in the short term—as they will have to if pressing global and transboundary problems such as ozone depletion, global warming and deforestation are to be confronted—some mechanism of resource transfer from North to South must be implemented.³⁰⁵ Most of our witnesses agreed about the necessity of resource transfer: for example, the WTO described how money for capacity building would enable developing countries to identify and reject imports of dangerous chemicals which are banned in their countries of origin.³⁰⁶ The Department of the Environment made it clear that "it is absolutely essential, in this package of trade and environment, that everything is done to ensure that the capacity exists in the developing country, that they have access to the resources to develop that capacity so that they can maintain and enforce the regulations that they require."³⁰⁷ The WTO,³⁰⁸ UNCTAD,³⁰⁹ and Friends of the Earth³¹⁰ all agreed that "positive measures" such as financial transfer, technology transfer and capacity building (enabling countries to establish and enforce their own environmental legislation)—as opposed to trade measures—are the best way of achieving sustainable development.

145. The Department of the Environment and European Commission described some of the ways in which they transfer resources to developing countries for environmental purposes, such as linking aid to environmental projects.³¹¹ On an international scale, there is a Global Environment Facility (GEF),³¹² the aim of which is to help developing countries meet the environmental targets established in international agreements.³¹³ The United Kingdom has committed £130 million to the GEF so far.³¹⁴

146. Countries such as Brazil are unwilling to open other areas of the "trade and environment" debate for discussion until developed countries follow up the decisions made at Rio concerning matters such as climate change, production and consumption patterns, financing, urban environment, eradication of poverty, etc.³¹⁵ Developing countries are primarily concerned that developed countries have not reached the "Agenda 21" target of giving 0.7 per cent of GNP as overseas development aid.

147. According to UNEP the GEF is not adequately funded. Maurice Strong, Secretary General of UNCSD in Rio, calculated that \$120 billion a year would be needed to address global environmental problems, and according to UNEP the \$2 billion of the GEF was a

³⁰³ App 9

³⁰⁴ Ev p193

³⁰⁵ Ev p44

³⁰⁶ Q157

³⁰⁷ Q51

³⁰⁸ Ev p67

³⁰⁹ App 9

³¹⁰ Ev p125

³¹¹ Q49, Q481

³¹² Ev p35

³¹³ Q49

³¹⁴ Q50

³¹⁵ Q680

political compromise.³¹⁶ Developing countries are equally unimpressed with the GEF: the Brazilian Ambassador told us that “we think that what has been approved in Rio, in 1992, has not been achieved, on the question of finance and financial support. A number of resolutions have been adopted, some commitment has been given by G7 countries, and, as far as I am aware, only Germany has given some of what has been promised”.³¹⁷ This point was echoed by the Malaysian Minister of Primary Industries.³¹⁸

148. We recognise that although the United Kingdom Government has met most of its international commitments for environmental funding, no G7 country has as yet succeeded in reaching all its Agenda 21 targets set at the United Nations Conference on Environment and Development in 1992.

The need for policy integration

149. The above paragraphs have outlined how cost internalisation, made possible by resource transfers, could make the world trading system work to the benefit of the environment. None of this will be achieved, however, unless national governments and intergovernmental organisations integrate environmental concerns into their economic (and specifically trade) policies. As the European Commission points out, “the impact of trade on the environment depends mainly on the environmental policies and sustainable development strategies implemented at national and international level”.³¹⁹ The fundamental importance of policy integration was recognised by the major international organisations—the WTO,³²⁰ the OECD,³²¹ the European Commission³²² and the World Bank,³²³ as well as by WWF.³²⁴ The European Commission attributed its success in arriving at a “green” position on trade and environment to the fact that Member States and the European Parliament have such powerful environmental policies.³²⁵

150. The World Bank provided some encouraging examples of how environmental considerations have been incorporated into development loan agreements. Since 1988, some 60 per cent of countries receiving adjustment loans (designed to improve macroeconomic and trade policies) have requested complementary support from the World Bank for environmental reforms. For example, “Peru embarked upon a process of economic liberalization three years ago, and requested assistance from the World Bank. When it became clear that this would make Peru’s (export) fishing industry more competitive and would place extra pressure on scarce fish stocks, the government promulgated a substantially stronger fishing law, which became a key element in the World Bank’s support for the adjustment program.”³²⁶ The World Bank identified several areas where policy reforms are needed in developing countries: these include secure land tenure to ensure sustainable use of resources such as forests; and the introduction of the Polluter Pays principle.³²⁷

151. Regional trade agreements, notably NAFTA and Mercosur, also give pointers as to ways in which environmental concerns can be successfully incorporated into international trade policy. NAFTA has an environmental side agreement, the North American Commission on Environmental Co-operation, which has “already achieved some success in ensuring that efforts to address shared North American problems are co-ordinated with the NAFTA trade

³¹⁶Q261

³¹⁷Q683

³¹⁸Annex I

³¹⁹European Commission Communication on Trade and Environment, February 1996

³²⁰Q163; Q231

³²¹OECD “Report on Trade and Environment”, 1995

³²²Q486

³²³App 10

³²⁴Q75

³²⁵Q486

³²⁶App 10

³²⁷*ibid*

liberalisation programme".³²⁸ For example, the United States has helped Mexico with its enforcement of environmental legislation by providing training for enforcement officers.³²⁹ Nonetheless, the Canadian government reported that NAFTA has had no impact on transboundary environmental problems between the United States and Canada.³³⁰

152. The four governments involved in the Mercosur agreement—Brazil, Argentina, Paraguay and Uruguay—are working together to co-ordinate land transport, industry, agricultural and energy policies, all of which have a bearing on the environment.³³¹ In addition, Brazil is seeking to negotiate an upward harmonisation (to Brazilian standards) for hazardous products such as chemicals³³² so that the removal of trade barriers does not result in product standards falling to those of the lowest common denominator. APEC (Asia Pacific Economic Co-operation Forum) which, when it is fully established, will be the largest and most diverse of all the free trade areas, is already incorporating environmental objectives such as the "polluter pays principle" into its work.³³³ The only free trade area which appears not to have integrated environmental concerns into its trade agreement is ASEAN (Association of South-East Asian Nations) which considers trade and environment to be completely separate issues.³³⁴

153. The EU now includes an environment chapter in all its trade and co-operation agreements and has plans to carry out full reviews to determine the impact of its trade policies on the environment, and of its environmental policies on trade (a recommendation of the OECD).³³⁵ It may be more difficult for such reviews to be carried out on the scale of the WTO: "The obstacles to be overcome at international level in order to fulfil this objective (*of achieving a better interaction between trade and environmental policies to achieve sustainable development*) are, in some respects, similar to those the EU is facing to integrate environmental requirements into other policy areas, including the establishment and functioning of the internal market. However, at international level there is no integrated institutional framework, as in the EU, but a multitude of bodies and institutions with specialised tasks, different composition and varying structures".³³⁶ This highlights once again the need for an integrated international environmental regime, a theme which will be explored in more detail in Section 5 of this Report.

154. We recommend that further work be carried out at each level of government—national, international and global—to put into practice the commitment to integrate environmental considerations into all other policy areas, a commitment which lies at the heart of the Rio Agreements and the Maastricht Treaty.

³²⁸Ev p101

³²⁹Q295

³³⁰App 1

³³¹Q701; Annex IV

³³²Q703

³³³App 1

³³⁴Annex I

³³⁵Q463

³³⁶European Commission Communication on Trade and Environment, February 1996

SECTION 4: RECONCILING THE TRADE AND ENVIRONMENTAL REGIMES

155. The previous section of this Report examined the ways in which trade liberalisation has brought about environmental change, particularly in developing countries, with the conclusion that effective environmental policies are an essential precondition of a mutually supportive relationship between trade and the environment. This section looks at the other side of the coin, reviewing existing and proposed environmental agreements and policies to see whether they restrict world trade and if so, whether that restriction is justified.

156. The terms of reference for the WTO Committee on Trade and Environment include “surveillance of trade measures for environmental purposes, of trade-related aspects of environmental measures which have significant trade effects, and of effective implementation of the multilateral disciplines governing those measures”.³³⁷ More specifically, the WTO Committee on Trade and Environment will be addressing the issues of trade measures in Multilateral Environmental Agreements (MEAs); national environmental policies which affect trade; charges and taxes for environmental purposes; and environmental product requirements, including ecolabelling and packaging regulations. In this section of the Report, we will present our conclusions—which we hope will inform the Government in its preparations for the Singapore WTO Conference—on the extent to which the current WTO rules should be changed, making suggestions as to the kind of changes which would be practicable and acceptable to other WTO members.

157. We were not presented with much substantive evidence to suggest that environmental measures are unduly restricting trade at present, particularly as far as developed countries are concerned. James Lee of the American University, Washington DC looked at the effect on trade of nine specific environmental trade-restrictive measures, most of which were import bans involving the United States and some of which were found to be in breach of GATT rules. The value of lost trade, which ranged from \$25 million to \$75 million, was small in comparison with the value of the resources which the measures sought to protect³³⁸ (bearing in mind, of course, that it is very difficult to place a monetary value on environmental “goods”). Closer to home, the British Importers Association told us that “the environment has not had a big impact on our members.”³³⁹ UNCTAD has been trying to quantify the effects of environmental measures such as ecolabelling and environmental management standards on trade and has found this to be a very difficult task, partly because the official trade statistics are not sufficiently detailed.³⁴⁰

158. It is the developing countries which are most concerned about the effects of foreign environmental requirements on their trading interests (and therefore, they would argue, on their prospects for environmental improvement). The Brazilian Ambassador considered that overseas environmental regulations had affected several Brazilian industries, including paper and pulp, timber, ceramics and footwear.³⁴¹ While there might not be much empirical evidence of *past* trade losses due to environmental requirements, developing countries are concerned about the *potential* impact of new measures, particularly ecolabelling. According to UNCTAD, “developing countries are concerned that environment-related trade measures have the potential to erode the benefits resulting from recent trade liberalisation, as a number of environmental policies are emerging in sectors where tariff and non-tariff barriers are being reduced and where comparative advantage is shifting from developed to developing countries.” Backing up what the Brazilian Ambassador had told us, UNCTAD warned that in developing countries “the competitiveness effects of external environmental policies could become more significant for small firms and for firms in particular sectors, such as textiles,

³³⁷Ev p17

³³⁸Annex IV

³³⁹Q712

³⁴⁰Annex IV

³⁴¹Q674

footwear and furniture".³⁴²

Are trade restrictions needed to protect the environment?

159. Several witnesses were of the view that direct trade measures such as import bans, quotas and tariffs are very rarely, if ever, an appropriate way of tackling environmental problems. For example, the WTO told us that "trade restrictions are ill-suited to being used to change production methods abroad",³⁴³ illustrating its case with a hypothetical example of an exporter facing an additional border tax or tariff who might decide to "lower his environmental standards and costs still further in order to try to recoup the competitiveness lost through having to pay the extra tariff."³⁴⁴ Government representatives from Brazil,³⁴⁵ Singapore, Malaysia and Thailand³⁴⁶ shared a general presumption against the use of trade measures for environmental purposes, as did witnesses from industry such as the International Council of Chemical Associations.³⁴⁷

160. However, it remains the case that trade measures are one of the few ways in which international environmental agreements can be enforced.³⁴⁸ The Centre for Social and Economic Research on the Global Environment commented that "trade policies for environmental protection... are often seen as one of the only means for countries to have an impact on the production processes of other economies in the absence of international co-operation."³⁴⁹ Most of our witnesses, including the European Commission, OECD, UNEP and the United Kingdom Government, agreed that trade measures are a necessary component of the three Multilateral Environmental Agreements which employ them (see below) although the *unilateral* imposition of trade measures was a far more contentious issue. It was generally agreed that trade measures should only be used as a last resort when no alternative option is available.³⁵⁰

161. The OECD and Department of the Environment both explained that "the most frequent use of trade measures for environmental purposes is in conjunction with national product requirements... Such restrictions are clearly permitted under the current multilateral trade rules, subject to agreed disciplines".³⁵¹ However, as explained in Section 1, the WTO rules do not allow the use of trade-restrictive measures to influence the Processes and Production Methods (PPMs) employed by a trading partner. The question of whether the WTO rules should be changed to allow the use of trade measures based on PPMs lies at the heart of the debate currently being conducted in the WTO Committee on Trade and the Environment: PPMs cut across a number of issues, including the use of trade measures for environmental purposes, life-cycle approaches, economic instruments and harmonisation of environmental policies and requirements.³⁵² Some of these individual issues will be considered below.

Multilateral Environmental Agreements (MEAs)

162. The OECD, European Commission and United Kingdom Government stand firmly behind Principle 12 of the Rio Declaration which states that "unilateral actions to deal with environmental problems outside the jurisdiction of the importing country should be avoided and environmental measures addressing transboundary or global problems should, as far as possible, be based on international consensus."³⁵³ According to the OECD, the multilateral approach "is the most effective from an environmental policy perspective; it is likely to

³⁴² App 9

³⁴³ Ev p71

³⁴⁴ *ibid*

³⁴⁵ Q672

³⁴⁶ Annex I

³⁴⁷ International Council of Chemical Associations, "Position Statement on Trade and Environment", 11 April 1995

³⁴⁸ Paul Ekins, "Harnessing Trade to Sustainable Development"

³⁴⁹ App 2

³⁵⁰ OECD "Report on Trade and Environment", 1995; Ev p9; Q123; European Commission Communication on Trade and Environment, February 1996

³⁵¹ OECD "Report on Trade and Environment", 1995

³⁵² *ibid*

³⁵³ European Commission Communication on Trade and Environment, February 1996

prevent the misuse of trade restrictions including those for protectionist purposes; and it reduces pressure for the use of unilateral trade restrictions.”³⁵⁴

163. The memorandum from the Department of the Environment lists the 18 MEAs (out of a total of 180) which include trade restrictions.³⁵⁵ Of these, three have global application and rely on trade measures for their success: the Convention on International Trade in Endangered Species of Wild Flora and Fauna (CITES); the Montreal Protocol on Substances that Deplete the Ozone Layer; and the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal. Detailed descriptions of these MEAs can be found in the Department of the Environment’s evidence.³⁵⁶ Each of the MEAs employs a different kind of trade restriction in order to achieve its unique purpose.

The Montreal Protocol

164. The Montreal Protocol bans trade in ozone-depleting substances between signatories and non-signatories. All parties to the Protocol have agreed to phase out CFCs and other ozone depleting substances before a specified deadline, but limited trade is allowed between signatories in the interim period. The trade ban serves two purposes: firstly, it puts pressure on non-signatories to join up; and secondly, it prevents companies in signatory states from obtaining large quantities of CFCs from non-signatories, or even relocating in the non-signatory states.³⁵⁷ There are now 156 signatories to the Protocol³⁵⁸ and production of ozone depleting substances fell by 60 per cent between 1986 and the end of 1993.³⁵⁹

165. Duncan Brack of the Royal Institute of International Affairs analysed the effectiveness of these trade measures. His conclusion was that the Montreal Protocol is “one of the most effective international environmental treaties ever negotiated”, and that “there is general acceptance amongst participants in and observers of the Montreal Protocol process that the agreement’s trade provisions played an important part in the decisions of at least some countries (to sign)”.³⁶⁰ For example, Korea delayed in acceding to the Protocol but eventually signed in order not to inhibit its export trade in products containing CFCs, such as refrigerators and cars. The Department of the Environment shared Duncan Brack’s conviction that trade measures are an essential part of this control regime.³⁶¹

166. The WTO was less convinced of the necessity of a trade ban to achieve the phase-out of ozone-depleting substances. According to the WTO, the main incentive for developing countries to sign the Montreal Protocol was the availability of financial aid—under the Montreal Fund—to help them develop alternative technologies:³⁶² an offer which Duncan Brack agreed was an important component of the overall package.³⁶³ The WTO did not think that the loss of overseas markets would have much effect on countries like India, which has a huge domestic market for its refrigerators³⁶⁴ (and, according to Oxfam, is not complying with the terms of the Protocol)³⁶⁵ and viewed the decision to impose a trade ban as politically motivated.³⁶⁶

³⁵⁴OECD “Report on Trade and Environment”, 1995

³⁵⁵Ev pp9, 18

³⁵⁶Ev pp18-22

³⁵⁷App 6

³⁵⁸Q255

³⁵⁹App 9

³⁶⁰App 6

³⁶¹Ev p10

³⁶²Q197

³⁶³App 6

³⁶⁴Q197

³⁶⁵Q98

³⁶⁶Q193

167. ICI pointed to the existence of a very significant black market in CFCs as evidence that the Protocol is not achieving its purpose³⁶⁷ although they conceded that world production had indeed decreased by 60 per cent, largely as a result of the efforts of reputable companies.³⁶⁸ The case study in Box 7 illustrates the difficulties of enforcing the Protocol, but also shows how customs officers in the United States have taken effective enforcement action.

CFC Smuggling into the USA

The problem of illegal trade in CFCs is most acute — and has been most effectively addressed — in the United States. The Royal Institute of International Affairs estimates that (at worst) 20,000 tonnes of CFC are smuggled into the USA each year, and perhaps the same again in the rest of the world. The chief source of this is Russia, which is a signatory to the Protocol but has failed to abide by the trade restrictions and phase-out schedules laid down.

There are two reasons why the problem is greatest in the USA. First, 90 per cent of US automobiles are fitted with mobile air conditioning systems, compared to about 10 per cent of European vehicles. This leads not only to a larger demand for refrigerant fluids but also to a network of small garages amongst whom legislation concerning ozone depleting substances is more difficult to enforce. Second, the US decision to introduce a CFC excise tax to encourage phaseout has created a substantial tax avoidance incentive.

This combination of circumstances has resulted in a black market in CFCs in the US estimated at 20 million pounds (in weight), valued at \$300 million per year. If this figure was accurate in 1994, it represented about 20% of all virgin CFC-12 imported into the US in that year. If the volume of smuggled material remains significant after CFC phaseout on 1.1.96, it will clearly undermine the effectiveness of the ozone regime.

The US Government inter-agency task force formed in 1994 has scored some successes. In the most dramatic case, false manifests for cargo to be shipped from Miami were filed covering 209 cargo containers, holding almost 4000 tons of CFC-12 with a retail value of about \$52m. Inspection of the outbound vessels supposedly re-exporting the CFCs from the US (a legal activity) revealed that the cargo containers were not aboard, a conclusion supported by the fact that some of the manifests claimed a greater number of containers per vessel than their actual capacity.

Source: Duncan Brack, Royal Institute of International Affairs

Box 7

The Basel Convention

168. The Basel Convention, signed in 1992, requires prior notification of hazardous waste shipments between signatories; a subsequent Amendment bans all shipments of hazardous waste to non-OECD countries, where there are unlikely to be suitable facilities to recycle or dispose of the waste safely. The Amendment was included at the request of developing countries like Malaysia and Thailand, which have received unwanted shipments of hazardous waste both from the West and from other Asian countries.³⁶⁹ The Department of the Environment justified the use of trade measures on the grounds that the prevention of unnecessary and unregulated hazardous waste movements cannot be left to market forces since environmentally sound disposal processes are often costly; and a mechanism to apply the 'polluter pays' principle is necessary.³⁷⁰ The main opposition to the Convention, and particularly to the Amendment, comes from the recycling industries in Europe and the United States which will no longer be able to export waste officially classed as hazardous (which will

³⁶⁷ Q563; Ev p166

³⁶⁸ Q578

³⁶⁹ Annex I

³⁷⁰ Ev p10

include recyclable scrap metal) to the Third World.³⁷¹

169. At this early stage, the United Kingdom Government considers that it is too early to judge the Convention's effectiveness.³⁷²

CITES

170. CITES seeks to protect endangered species of plants and animals by placing restrictions on the trade in wildlife. As with the other two MEAs, the Department of the Environment recognises the value of these trade measures, commenting that "the ability for CITES Parties to act in concert to ban trade altogether in certain species is an integral part of the Convention and essential to protect the most endangered".³⁷³

171. UNEP explained how trade itself is an integral part of the problem of species extinctions.³⁷⁴ During our visit to the CITES team at Heathrow Airport we learned how profitable it can be to trade in rare animals and birds: for example, cockatoos can sell for £10,000 each. Unscrupulous dealers will trap or kill the most endangered species—a recently-convicted dealer had imported six species under serious threat of extinction, including a Philippine monkey-eating eagle, of which only 50 pairs survive.³⁷⁵

172. The Royal Society for the Protection of Birds considered that "the implementation of CITES controls often falls below the level required to make this convention fully effective"³⁷⁶ and UNCTAD thought that alternative options, such as species management, might be equally effective.³⁷⁷ However, our discussions with the CITES team and staff of the London Quarantine Station revealed that, as far as trade through Heathrow is concerned, implementation of CITES has succeeded in its objectives. Importers have learned not to order species of animals that they know cannot be legally traded; the quality of consignments has improved considerably, in terms of animal health and packing; and the threat of seizure has proved an effective incentive to providing the correct documentation. We were impressed by the dedication and specialist knowledge of the CITES team, and by the ingenuity of their new computer software system which will enable easy identification of hundreds of CITES species.³⁷⁸

173. However, we were not convinced that the enforcement of CITES is equally effective in large container ports where goods are in transit.³⁷⁹

MEAs and the WTO rules

174. As the above paragraphs have shown, "if trade *per se* is a threat to the environment—which is the case for the problems addressed by CITES and for the Basel Convention—limiting and monitoring trade can address the problem effectively."³⁸⁰ It is therefore a matter for concern that the trade measures in MEAs may not be compatible with the WTO rules. Oxfam explained that trade measures within MEAs could be found to be inconsistent with GATT rules, "notably the Article XI prohibition on quantitative restrictions on international trade, or the provisions of Articles I and III concerning national treatment and non-discrimination". In Oxfam's view, this potential inconsistency risks causing a damaging "chilling" effect on the implementation of existing MEAs, and on the negotiation of future ones.³⁸¹

³⁷¹ Annex IV

³⁷² Ev p21

³⁷³ Ev p9

³⁷⁴ Ev p90

³⁷⁵ *The Times*, 10 May 1996

³⁷⁶ App 7

³⁷⁷ App 9

³⁷⁸ Annex III

³⁷⁹ See, for example, the discussions with officials in Singapore and visit to Westport, Annex I

³⁸⁰ Ev p91

³⁸¹ Ev p45

175. As it stands, none of the trade measures in MEAs have been challenged in the WTO,³⁸² probably because the Montreal Protocol and CITES agreement have more signatories than the WTO has members. If there were to be a trade-related dispute between two members of an MEA, it would naturally be resolved within the framework of that MEA³⁸³—and, in fact, this has been the case with disagreements among African countries over the ivory trade.³⁸⁴ Instead, the risk of a challenge would come from non-parties to an MEA who might lose export opportunities as a result of the trade restrictions.³⁸⁵

176. UNEP revealed that a number of new MEAs are currently under discussion, including agreements on Domestically Prohibited Goods and persistent organic pollutants, a Biosafety Protocol and a Forest Convention.³⁸⁶ All of these will affect trade in some way.³⁸⁷ During our visit to Malaysia, the Minister of Science, Technology and the Environment emphasised the importance to Malaysia of an agreement on Domestically Prohibited Goods as Malaysia, like many developing countries, does not currently have the capacity to identify and reject consignments of unwanted hazardous chemicals.³⁸⁸ It is important that such agreements are allowed to proceed without the risk of challenge in the WTO. We were encouraged to learn, therefore, that one of the items on the WTO agenda for Singapore is a proposed system of Prior Informed Consent for Domestically Prohibited Goods. This would ensure that importing countries were fully informed about the products they receive, and would give them the right to reject those products if they would cause environmental or other problems.³⁸⁹ **We urge the United Kingdom Government and European Union to lend their full support, during WTO negotiations, to the proposed Prior Informed Consent system for Domestically Prohibited Goods.**

177. While the risk of existing MEA trade measures being challenged is small, there is a greater likelihood that the WTO rules will be used to prevent the use of trade measures “pursuant to an MEA”.³⁹⁰ These are trade measures which are not specifically provided for in an MEA, but whose purpose is to achieve the goal of the MEA, whether that be forest conservation, the slowing down of global warming or the preservation of biodiversity.

178. The principal question, then, is “should governments avoid using any trade measure in MEAs which is inconsistent with their WTO obligations, or should the WTO rules be changed to permit discriminatory trade measures to be applied against one of its Members under an MEA, and if so under what conditions?”³⁹¹ Whatever happens during the WTO negotiations, the G7 countries have a “bottom line” that the present protection for the environment must not be diminished.³⁹²

Amending Article XX of GATT

179. Article XX of the GATT grants exemptions (from the WTO principles of non-discrimination) for trade measures which are taken to protect animal, plant or human health, or to conserve natural resources.³⁹³ However, it makes no specific reference to the environment or MEAs. Many environmentalists desire to see a formal amendment to Article XX which would make it clear that trade measures in MEAs are allowed under GATT, provided they comply with certain agreed criteria.

³⁸²Ev p3

³⁸³Q35

³⁸⁴Ev p34

³⁸⁵Ev p69

³⁸⁶Q253

³⁸⁷Q274

³⁸⁸Annex I

³⁸⁹Ev p70; Q159

³⁹⁰Q270

³⁹¹Ev p69

³⁹²Q775

³⁹³Ev p6

180. As part of our Inquiry, we conducted a survey by circulating a suggested form of wording for an amendment.³⁹⁴ Of those who responded, the British Fur Trade Association, UNCTAD, RTZ, Steve Charnovitz and the Consumers' Association were either opposed to, or wary of, an amendment to GATT Article XX. Oral evidence from the WTO revealed that they, too, had serious reservations about a formal amendment to the GATT rules. Positive responses to the proposed amendment were received from the OECD, UNEP, CBI, ICI, the British Importers Association, Dan Esty, Duncan Brack (Royal Institute of International Affairs), Friends of the Earth, the RSPCA, the Political Animal Lobby, WWF and the Royal Society for the Protection of Birds. The European Commission is very much in favour of an amendment to Article XX, and has drawn up a proposal³⁹⁵ for consideration at the Singapore meeting. This has the support of the United Kingdom Government.

REASONS FOR CAUTION

181. The WTO and UNCTAD argued for their cautious approach to an amendment of Article XX. The WTO warned that:

"one should be cautious about introducing, or undermining, the absolute bedrock of the trading system, which is non-discrimination... That is absolutely playing power politics. The United States has not signed the Basel Convention; do you honestly believe that anybody can threaten the United States with trade restrictions and the United States will say, 'Okay, I'll sign the Basel Convention'? It allows big to hit small, it does not allow small to hit big".³⁹⁶

182. Singapore and Malaysia agreed with UNCTAD that most developing countries do not want any amendment to Article XX as they feel that this could be exploited for protectionist purposes.³⁹⁷ Specifically, some developing countries with tropical forests fear that trade restrictions could be used to pressurise them into signing the proposed Forest Convention.³⁹⁸

183. Because of the opposition from these developing countries, it may prove difficult for the EU to negotiate an amendment to Article XX in Singapore. The Department of the Environment observed that "there is a fear that by (amending Article XX) you would open the way, first of all, to unilateral action, as well as action just under MEAs, unless it was very carefully crafted, and also there is a practical difficulty that negotiating amendments to the GATT itself is quite difficult and may be difficult to reach agreement on."³⁹⁹

184. As an alternative to amendment of Article XX, the WTO could decide to take the *ex post* approach, by which waivers would be granted for individual MEAs. The trade measures would be analysed on a case-by-case basis, looking at their necessity and effectiveness.⁴⁰⁰ This approach has won support from delegations reluctant to envisage amendment to the GATT⁴⁰¹—including Singapore—who fear that a formal amendment will open the door to protectionist abuses.⁴⁰² At this point it should be noted that although they oppose an amendment to GATT, many developing countries are committed to fulfilling their responsibilities under the existing MEAs; for example, Malaysia was the first country to draw up a national plan under the Montreal Protocol.⁴⁰³

185. The European Commission's proposal for an amendment to GATT Article XX includes an "understanding" setting down the conditions under which trade measures taken pursuant to an MEA would qualify for exemption from WTO rules. In summary, the

³⁹⁴ Annex V

³⁹⁵ Ev pp 208-209

³⁹⁶ Q199

³⁹⁷ Annex I; App 9

³⁹⁸ Q191

³⁹⁹ Q40

⁴⁰⁰ UNCTAD (Ev not printed)

⁴⁰¹ Ev p13

⁴⁰² Annex I

⁴⁰³ *ibid*

conditions are:

- that the environmental problems require action at the international level (so trade measures could *not* be used to deal with another country's domestic environmental problems unless these had transboundary or global implications)
- that the MEA must be open to participation by all parties concerned about the environmental objectives of the agreement
- that the MEA reflects the interests of parties with relevant significant trade and economic interests
- that MEA Secretariats must inform the WTO of any provisions within an MEA which envisage the use of trade measures, and
- that the trade measures are subject to existing WTO transparency requirements.⁴⁰⁴

Any country objecting to a trade measure taken pursuant to an MEA would have recourse to a WTO dispute settlement panel which would judge whether the MEA satisfied the above criteria.⁴⁰⁵

186. In addition to these specific conditions, Article XX exemptions are only allowed if the measure is necessary to achieve the environmental objective, and if it is the least trade-restrictive measure available for the purpose (although environmentalists point out that it is very difficult to ascertain whether any measure is the "least trade restrictive available").⁴⁰⁶

187. In view of the safeguards against protectionist abuse enshrined in the European Commission's proposed amendment of Article XX of the GATT, and in view of our conclusion that the successful negotiation and implementation of Multilateral Environmental Agreements is a vital element in tackling global and transboundary environmental problems, we urge the United Kingdom Government to lend its full support to the European Commission's proposal as the basis for resolving this issue at the WTO Ministerial Meeting in Singapore. We urge the United Kingdom Government to oppose any proposals which would weaken the legitimacy of trade measures taken pursuant to MEAs.

The TRIPs Agreement and the Biodiversity Convention

188. WWF, Oxfam and Friends of the Earth drew our attention to one particular MEA, the success of which could be compromised by the WTO rules. Signatories to the UN Convention on Biological Diversity (Biodiversity Convention) have agreed to take steps to maintain and enhance the diversity of plant and animal life in both developed and developing countries, giving particular attention to the conservation of threatened species. As part of this overall goal, the Convention seeks the fair and equitable sharing of the benefits arising from the use of genetic resources between developing and developed countries, and therefore calls for co-operation and complementarity between biodiversity conservation and regimes to protect intellectual property rights.⁴⁰⁷

189. WWF is concerned that the WTO's Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs) is incompatible with the Biodiversity Convention in that it does not recognise innovation in the traditional or informal sectors, such as the gradual development, over time, of traditional crop varieties by Third World farmers, or the discovery by indigenous peoples that certain rainforest plants have medicinal value.⁴⁰⁸ This means that multinational companies with expertise in genetic engineering can take advantage of traditional knowledge without having to pay the communities concerned.

190. The current system of intellectual property rights also prevents farmers from keeping

⁴⁰⁴Ev p 209

⁴⁰⁵*ibid*

⁴⁰⁶WBCSD, "Trade and Environment: a Business Perspective"

⁴⁰⁷WWF, "The UN Biodiversity Convention and the TRIPs Agreement"

⁴⁰⁸Q143

back seed from patented crop varieties for planting the next year.⁴⁰⁹ Friends of the Earth and Oxfam described how this is of great concern to farmers in India,⁴¹⁰ who fear that TRIPs will prevent them from using or exchanging seed from crops which, although originally derived from patented strains, they have modified themselves by crossing with traditional varieties.⁴¹¹ The intellectual property rights system in the WTO is based around the United States system, and according to WWF “requires 20 lawyers to file your patent”.⁴¹² WWF recommends that developing countries should be able to develop their own systems of intellectual property rights and that they should be provided with technical and financial assistance in order to do so.⁴¹³

191. The European Commission takes a more positive view of TRIPs, which it claims “constitutes a major milestone in the efforts of the industrial countries to bring the level of Intellectual Property Rights protection in developing countries to a world class level.”⁴¹⁴ The Commission recognises that intellectual property rights under TRIPs should not run counter to the objectives of the Biodiversity Convention, and will promote the voluntary transfer of intellectual property rights held by European operators.

192. We urge the European Community to consider the potential conflict between the TRIPs Agreement and the Biodiversity Convention in any future review of the effectiveness of the TRIPs Agreement. It should in particular give consideration to the role of international obligations and legal agreements to ensure that food security is not compromised by intellectual property rights.

Unilateral trade measures based on Processes and Production Methods

193. As well as pressing for the amendment of GATT to exempt the trade measures in MEAs from the general WTO principle of non-discrimination, environment and development organisations such as the WWF, Oxfam and Friends of the Earth would like to see more fundamental changes which would permit the application of *unilateral* trade restrictions (relating to processes and production methods) for environmental purposes. Their main reason for supporting unilateral action was the fact that MEAs are difficult and time-consuming to negotiate: for example, the United States had been trying to reach an agreement on fishing techniques which harm dolphins since 1972, and only took unilateral action to ban Mexican tuna after these efforts had proved unsuccessful.⁴¹⁵ Both Oxfam and WWF viewed unilateral action as a last resort after attempts at multilateral negotiation have failed.⁴¹⁶

194. Several of our witnesses had very strong objections to the use of unilateral trade measures. For example, the OECD has stated that “OECD Governments confirm their commitment to UNCED Agenda 21 and Principle 12 of the Rio Declaration that unilateral action to deal with environmental challenges outside the jurisdiction of the importing country should be avoided,” explaining that “unilateral measures could lend themselves to protectionist abuse and pressure countries to change their own environmental policies within their jurisdiction, and provoke conflict among trading partners. There are concerns that such measures may not be appropriate to the environmental conditions in the exporting country and that countries with greater market power will inappropriately or unfairly pressure countries with lesser power to change their environmental policies and practices within their jurisdiction as a condition of market access.”⁴¹⁷

195. Witnesses from industry, such as the World Business Council for Sustainable

⁴⁰⁹Friends of the Earth, “Intellectual Property Rights and the Biodiversity Convention: The Impact of GATT”

⁴¹⁰Q144

⁴¹¹Friends of the Earth, “Intellectual Property Rights and the Biodiversity Convention: The Impact of GATT”

⁴¹²Q143

⁴¹³Q144

⁴¹⁴European Commission Communication on Trade and Environment, February 1996

⁴¹⁵Q119

⁴¹⁶Q123

⁴¹⁷OECD “Report on Trade and Environment”, 1995

Development,⁴¹⁸ the International Council of Chemical Associations,⁴¹⁹ ICI⁴²⁰ and the British Iron and Steel Producers Association⁴²¹ were also opposed to the use of unilateral trade measures based on PPMs, citing similar reasons to those of the OECD. The WTO did not think that unilateral action was an effective way of tackling environmental problems because “one country, even though it is a major market, banning imports from you does not mean you cannot sell it elsewhere. Mexico’s tuna production has not suffered greatly from the United States embargo.”⁴²² A further fear was that if trade measures based on PPMs were allowed for environmental reasons, “the same arguments in favour of unilateralism could be applied to other aspects of national policy-making that a country’s trading partners did not happen to agree with, something which could undermine entirely the integrity of the WTO legal system.”⁴²³

196. The European Commission, although committed to the multilateral approach, envisaged that unilateral measures might be justified “against a country which is violating some fundamental legal duties under international environmental law, such as the obligation to ensure that activities within its jurisdiction do not cause damage to the environment of other States.”⁴²⁴ Neither did the Secretary of State for the Environment rule out the possibility of unilateral action as a last resort.⁴²⁵

197. The United States Council for International Business considers that unilateral action would be justified if a species were threatened with imminent extinction and might disappear before an MEA could be negotiated;⁴²⁶ however, the WTO was of the view that if countries cannot agree together to protect an endangered species within the framework of an MEA, it is unlikely that they will agree on a fundamental amendment to the GATT.⁴²⁷ UNEP reassuringly pointed out that successful international action can be taken before an MEA is ratified: for example, the UK and Netherlands have developed voluntary guidelines on biosafety as an interim measure whilst a legally binding instrument is being negotiated.⁴²⁸

198. If the unilateral application of trade measures based on PPMs were to be allowed under the GATT rules, there would have to be some means of deciding whether the disruption to trade was justifiable in the light of the expected environmental benefits. Dan Esty has therefore proposed a “three pronged test” which could be used to distinguish “green protectionism” from measures whose value in protecting the environment outweighs the loss of trade involved. This test would examine:

- the real intent behind the trade restriction, ie whether it discriminates unduly against imported products
- the legitimacy of the environmental objective: it would only be seen as genuine if it were derived from a multilateral agreement or if it related to scientifically proven environmental damage in the importing country
- whether the disruption to trade is justified: the value of the lost trade would be weighed against the severity of the threatened environmental damage.⁴²⁹

199. The OECD, when asked to comment on this test, pointed out that it would require the WTO to make a judgement on the *environmental* legitimacy of a measure, which in the

⁴¹⁸WBCSD, “Trade and Environment: a Business Perspective”

⁴¹⁹International Council of Chemical Associations, “Position Statement on Trade and Environment”, 11 April 1995

⁴²⁰Ev p155

⁴²¹British Iron and Steel Producers Association (Ev not printed)

⁴²²Q210

⁴²³Ev p69

⁴²⁴European Commission Communication on Trade and Environment, February 1996

⁴²⁵Q780

⁴²⁶Annex IV

⁴²⁷Q220

⁴²⁸Q331

⁴²⁹Dan Esty, “Greening the GATT”

OECD's view the WTO is not really qualified to do⁴³⁰ (although the WTO is in fact entitled to consult environmental specialists).⁴³¹

200. We recommend that the preferred approach to transboundary or global environmental problems must be through Multilateral Environmental Agreements wherever possible.

"Psychological damage" and animal welfare

201. One of the most difficult questions which confronted us during this Inquiry was whether it is acceptable to restrict trade in order to address actions overseas which are considered to be morally reprehensible but do not affect, in a physical sense, either the environment of the country imposing the trade measures or the global environment. This question is highly relevant in the light of the current disagreement between the EU, United States and Canada over the EU regulation which would ban imports of fur caught in leghold traps.⁴³² The EU regulation springs from public revulsion at the cruelty of the leghold traps, which cause the animal to die in agony over three days.⁴³³ This regulation is strongly supported by the United Kingdom Government on moral grounds.⁴³⁴ However, the animals caught in these traps are not endangered species and sustainable populations are maintained—in fact, according to the British Fur Trade Association, wildlife conservation has been far more successful in the United States and Canada than in Europe.⁴³⁵ Furthermore, Canada's Inuit people could lose their livelihood if they were prevented from trapping in this manner.⁴³⁶

202. The leghold trap regulation is a clear example of a unilateral trade restriction based on Processes and Production Methods, and as such is not compatible with the WTO rules. Both the Royal Society for the Prevention of Cruelty to Animals (RSPCA)⁴³⁷ and the Political Animal Lobby⁴³⁸ would like to see Article XX of GATT amended in order to allow PPM-based trade measures whose purpose is the welfare of animals.

203. Dan Esty suggested that one way around this dilemma would be for the countries imposing the import ban to pay compensation to those affected by it.⁴³⁹ This could happen in any case if the United States and Canada initiated a dispute in the WTO and won, as they would be able to retaliate against the EU for the lost trade in furs. The Secretary of State's view was that rather than offering compensation, the best solution would be for Europe to provide the Inuit with the necessary resources to trap animals humanely.⁴⁴⁰

204. Another possible solution would be the introduction of a consumer labelling scheme for "cruelty free" furs and other products. The GATT dispute settlement panel on the "Tuna-Dolphin" dispute did not find that the labelling of "dolphin friendly" tuna (under the US Dolphin Protection Consumer Information Act) was a barrier to trade, indicating that labelling of "cruelty free" products might be acceptable to the WTO. The general issue of ecolabelling and its compatibility with WTO rules is discussed in paras 209-218 below.

205. The argument in paras 193-199 above led us to conclude that unilateral trade measures are not normally an acceptable way of tackling environmental problems. However, as Steve Charnovitz observes, animal welfare is something of a special case and cannot be regarded

⁴³⁰Q423

⁴³¹Q786

⁴³²RSPCA (Ev not printed)

⁴³³Q799

⁴³⁴Q792

⁴³⁵British Fur Trade Association (Ev not printed)

⁴³⁶Q333

⁴³⁷RSPCA (Ev not printed)

⁴³⁸Political Animal Lobby (Ev not printed)

⁴³⁹Q333

⁴⁴⁰QQ795,796

in the same way as, say, industrial pollution.⁴⁴¹ **It is our view that animal welfare should be given separate consideration by the WTO.**

National environmental policies and standards which affect trade

206. The preceding paragraphs have examined the validity and usefulness of environmental measures such as import bans whose express aim is to restrict trade. As explained in Section 1 of this Report, these are not the only environmental measures which are of interest to the WTO—and a whole range of national policies and standards have been identified as potential non-tariff barriers to trade. In particular, the WTO Committee on Trade and Environment has been looking at ecolabelling, eco-packaging, measures dealing with recycling and waste handling, and the use of environmental taxes and subsidies which “constitute one of the fastest evolving areas of policy making.”⁴⁴² The key question that the WTO will be asking is “how environmental product regulations and standards, which are fully warranted from an environmental point of view in one country but not necessarily in others, can be formulated to ensure that when applied to imported products their effects are no more trade restrictive than necessary to do the job required of them.”⁴⁴³

Recycled content requirements

207. The growth of environmental awareness in Europe and the United States has been accompanied by increased consumer demand for recycled paper products, which are seen as more “environmentally friendly” than products made from virgin paper. In response to this demand, some of the major purchasers of paper now specify a minimum recycled content: for example, companies in the United States typically impose a minimum standard of eleven per cent recycled content. We received much evidence that such requirements can discriminate unfairly against overseas producers, and the case study of Noranda Inc in Box 8 illustrates this point well.

208. While recycling has environmental benefits in densely populated countries like Britain and Germany where waste paper is plentiful and trees relatively scarce, it makes less environmental sense in Canada⁴⁴⁴ or Finland⁴⁴⁵ which have a lot of trees but little waste paper. The Canadian Government told us that as the world’s largest exporter of forest products, Canada would suffer economically if there were extensive requirements for recycled content in paper and “on balance, the recycling of paper in Canada seems to place a greater strain on the environment than the production of virgin pulp and paper products.”⁴⁴⁶ The Paper Federation of Great Britain told us how waste paper is exported from the United Kingdom to Canada, to be made into newsprint which comes back to the United Kingdom.⁴⁴⁷

Ecolabelling

209. At the 1992 Rio Conference it was recognised that ecolabelling, and in particular ecolabelling based on life-cycle analysis, could be an important instrument in achieving sustainable patterns of consumption.⁴⁴⁸ For example, the introduction of an ecolabel for paints in Germany increased the market share of low-solvent paints from one to fifty per cent.⁴⁴⁹ At face value, voluntary ecolabelling schemes do not create an impediment to trade as unlabelled products can be marketed and sold in exactly the same way as products with an ecolabel.⁴⁵⁰ However, if the schemes are successful and the pattern of consumer demand changes significantly, producers who have not, for whatever reason, obtained the ecolabel

⁴⁴¹Steve Charnovitz, “Improving Environmental and Trade Governance”

⁴⁴²Ev p70

⁴⁴³*ibid*

⁴⁴⁴App 1

⁴⁴⁵Q183

⁴⁴⁶App 1

⁴⁴⁷Q635

⁴⁴⁸Q477

⁴⁴⁹Kristin Dawkins, “Ecolabelling: Consumers’ Right to Know or Restrictive Business Practice?”

⁴⁵⁰Q476

Recycled Content Regulations: Noranda Inc., Canada

The United States is pushing forward legislation on minimum proportion of recycled fibres in newsprint in order to divert recyclable paper from the solid waste stream and reduce the consumption of timber. Although there are no current federal regulations that impose minimum recycled fibre content, regulations and purchasing preferences have been proposed at the national level and some states have already enacted such laws: the minimum proportion of recycled fibre specified is normally 20-40 per cent. Also, many newspaper publishers have voluntarily decided to use recycled newsprint.

Canada does not possess a sufficient domestic supply of recoverable old newspapers to meet either the existing or the prospective mandatory standards for recycled content in the US. If all the newsprint consumed in Canada were recovered and recycled, it would provide sufficient material for perhaps an 11 per cent aggregate recycled content in Canadian newsprint. Meeting any higher content of aggregate recycled fibre content could only be achieved by importing waste paper, most probably from the US. As a result, Noranda's current Canadian products, with an average of 11 per cent recycled paper content, will be ineligible for sale in states where there is a minimum recycled content requirement of greater than 11 per cent. This applies whether these requirements derive from state regulations or from voluntary actions by customers.

This example raises interesting questions about the soundness of the environmental objectives being pursued. The environmental effects of transporting waste paper to Canada must be weighed against the environmental benefits of recycled content standards.

*Source: World Business Council for Sustainable Development
"Trade and Environment: a Business Perspective"*

Box 8

might find themselves at a disadvantage. Developing countries such as Brazil,⁴⁵¹ Malaysia and Singapore⁴⁵² believe that European ecolabelling schemes discriminate against their products because the ecolabelling criteria are selected with domestic producers in mind. They are also concerned about the cost of applying for foreign ecolabels (although in the case of the EU ecolabel, producers only have to pay 0.15 per cent of the proceeds from sales of ecolabelled products in Europe).⁴⁵³ The case study in Box 9 illustrates the current and potential effects of Western ecolabelling schemes on developing country producers.

210. National ecolabelling schemes such as the German Blue Angel⁴⁵⁴ were criticised by several witnesses. In ICI's view, they can be confusing and do not necessarily represent the best environmental practice.⁴⁵⁵ Manufacturers' own ecolabels may include claims that are meaningless, misleading or unsubstantiated, leading to widespread consumer cynicism.⁴⁵⁶

⁴⁵¹ Q675

⁴⁵² Annex I

⁴⁵³ Annex II

⁴⁵⁴ Q611

⁴⁵⁵ Q555

⁴⁵⁶ Ev p200; Annex II

The Impact of Environmental Labelling Schemes on Thailand

To date, the impact of ecolabelling schemes in Thailand's key markets—North America, East Asia and Europe—has been negligible. None of the Thai Export Promotion Offices in those countries had heard of any products from Thailand which had either been granted or refused an ecolabel.

So far, few Thai producers have shown any concern about the potential negative effects of ecolabelling on their export opportunities. However, this may change as Canada, Japan, Scandinavia and the EU are all planning to bring out labels for textiles, one of Thailand's key exports.

One of the biggest problems facing Thai producers with regard to ecolabels based on life cycle analysis is their inadequate understanding of the environmental effects of production, and the tendency to concentrate on end-of-pipe solutions to environmental problems. Also, the cost of applying for labels under all these schemes may be prohibitive unless some of that cost is absorbed by the buyers or importers.

Attitudes towards the German Ecotextiles label (Ökotex) are exemplary of the attitude of textile manufacturers in general. German buyers who have been trying to persuade their suppliers to produce garments eligible for the label complain of a general lack of interest. Textiles manufacturers are concerned that the market niche for such products is not sufficiently large to justify any changes in product standards. When pressed to provide ecotextiles, some producers said that they would prefer to switch to alternative markets (for example, the Middle East) rather than to switch production inputs. In response, some buyers are looking to other countries where producers are more responsive, such as Malaysia.

Source: Sophia Wigzell, Thailand Environment Institute "Thailand and Ecolabelling"

Box 9

THE EU ECOLABEL

211. The EU ecolabelling scheme is a voluntary scheme based on life cycle analysis, and was set up both to overcome the obstacles to trade which had been erected by the proliferation of national ecolabels, and to provide consistent and trustworthy environmental information for consumers.⁴⁵⁷ It has therefore won the support of companies such as ICI.⁴⁵⁸ Details of the scheme can be found in the paper by Steve Woolcock⁴⁵⁹ and in the Environment Committee's Eighth Report of 1990-91.⁴⁶⁰ Unfortunately, the scheme has been very slow in getting off the ground⁴⁶¹ and as yet, there are very few ecolabelled products on the shelves—leading the Consumers' Association to comment that "the scheme has no profile in the consumer's mind at all".⁴⁶² Nevertheless, it is viewed with alarm by some of Europe's trading partners, particularly Brazil and Canada, both of whom gave evidence to this Inquiry. It has also encountered opposition from the British paper industry which considers that the ecolabelling criteria for paper and pulp favour Nordic manufacturers.⁴⁶³

⁴⁵⁷ Annex II

⁴⁵⁸ Q555

⁴⁵⁹ Annex VI

⁴⁶⁰ HC, 1990-91, 474

⁴⁶¹ Q479

⁴⁶² Q131

⁴⁶³ Q607

ECOLABELLING AND THE WTO RULES

212. Neither the WTO⁴⁶⁴ nor the European Commission⁴⁶⁵ consider that the EU scheme is inconsistent with WTO rules as they stand. However, because life cycle analysis involves the evaluation of Processes and Production Methods, some overseas producers see the scheme as an attempt to impose PPM-based standards outside national boundaries. The Brazilians claim to have concrete evidence that their companies will be affected by the voluntary schemes for pulp and paper, and have threatened to bring a dispute to the WTO.⁴⁶⁶

213. Brazil and Canada⁴⁶⁷ were both aggrieved at the EU's lack of transparency in setting ecolabelling criteria. The Brazilian Ambassador told us that it has taken two and a half years for Brazilian industries to make their voice heard in Brussels⁴⁶⁸—although according to the European Commission, before the ecolabel even got off the ground “it was leaped upon and shaken firmly by not only the Canadians but also the United States and the Brazilians and the Argentines”.⁴⁶⁹

214. Largely at the insistence of developing countries, ecolabelling will be included on the agenda for the Singapore WTO meeting. The WTO Committee on Trade and Environment has four options for dealing with ecolabels:

1. It could bring ecolabelling schemes within the scope of the Technical Barriers to Trade Agreement, with the consequence that life cycle analysis, based as it is on Processes and Production Methods, could no longer be used as a basis for ecolabelling criteria. This approach would be supported by countries like Singapore, whose ecolabelling scheme is based solely on the environmental impact of the product itself.⁴⁷⁰
2. It could divide the life cycle in two, so that the producers apply their own national criteria to the production part of the cycle and the importers then apply their criteria to the “use” and “disposal” elements of the cycle. This would avoid the problem of extra-territorial application of PPMs but, in Steve Woolcock's opinion, would “undermine the whole concept of life cycle approaches”.⁴⁷¹
3. It could declare ecolabelling to be *compatible with* the Technical Barriers to Trade Agreement. This would mean that the EU would have to observe certain transparency provisions, something it is quite willing to do,⁴⁷² provided that they are applied both to official schemes like the EU ecolabel and to private schemes like those of the United States and Canada. (The OECD, on the other hand, seemed to think that while official voluntary ecolabelling schemes should be subject to WTO rules, private schemes should be exempt,⁴⁷³ indicating that this is could well be an area of conflict in Singapore). The WTO supports the introduction of transparency provisions, and suggested that trading partners could have an input in the drafting of legislation.⁴⁷⁴
4. It could issue a code of conduct, similar to that which applies to standard-setting organisations like the British Standards Institution. The Consumers' Association thought that a code of conduct would be very useful in increasing transparency⁴⁷⁵ but Steve Woolcock did not share this optimism and commented that a voluntary code would be

⁴⁶⁴Q225

⁴⁶⁵Q476

⁴⁶⁶Q675

⁴⁶⁷App 1

⁴⁶⁸Q688

⁴⁶⁹Q479

⁴⁷⁰Annex I

⁴⁷¹Annex VI

⁴⁷²European Commission Communication on Trade and Environment, February 1996

⁴⁷³Q436

⁴⁷⁴Ev p71

⁴⁷⁵Q755

ineffective and “a mere figleaf to show that something had been done.”⁴⁷⁶

HARMONISATION OF ECOLABELLING SCHEMES

215. In the long term, the trade effects of ecolabelling might be overcome by a process of international harmonisation. The International Standardisation Organisation is already working on voluntary international standards for environmental labelling and is seeking to develop an internationally-agreed methodology for life cycle analysis.⁴⁷⁷ However, there are many practical difficulties which stand in the way of an international ecolabel.

216. Because environmental conditions vary so much between countries, the process which is best for the environment in one area may be environmentally damaging in another. As the Consumers' Association remarked; “how do you build a life-cycle analysis which takes account of a country with, say, a thermal energy system or a hydro-electric system, or a country which uses certain chemicals because it can afford to, and another country which cannot?”⁴⁷⁸ This point was brought home during our visit to Thailand: although the purpose of the Thai “Green Label” is to promote Thailand's exports, the ecolabelling criteria are based on Thailand's environmental priorities.⁴⁷⁹

217. If international harmonisation proves impossible, a further option could be some form of mutual recognition, which would mean that producers who had been awarded their own national ecolabel would not have to apply for the ecolabels of every country to which they export. Again, this will be difficult to achieve because life cycle analysis is such an inexact science and is applied differently in different countries—Thailand, for example, uses a system of “life cycle review” which is simpler than the EC methodology.⁴⁸⁰ As a result, Steve Woolcock considered that this is a long term option which would require considerable time and effort.⁴⁸¹

218. American researcher Kristin Dawkins has summarised very well the pitfalls of ecolabelling:

“When ecolabelling criteria are stringent, producers lacking assured returns on their environmental investments may seek to undermine implementation. When ecolabelling criteria reflect a nation's domestic preferences, foreign producers may challenge them as trade barriers. When processing and production criteria are uninformed by an internationally standardised life cycle analysis, negotiations for equivalency and mutual recognition may fail.”⁴⁸²

219. Although our evidence indicates that the EU ecolabelling scheme has had very little impact on either trade or the environment to date, we consider that a recognised official scheme of voluntary ecolabelling could be an effective way of improving performance in industry and raising environmental awareness among consumers. The environmental effectiveness of ecolabelling would be impaired if the WTO rules were used to prevent the application of life cycle analysis, and we therefore support the European Union position that whilst there is a need for greater transparency, voluntary ecolabelling schemes should not be brought under the scope of the Technical Barriers to Trade agreement.

220. We also encourage the United Kingdom Government and the European Commission to support the work of standards-making bodies in the International Standardisation Organisation as they seek to draw up an internationally recognised methodology for life cycle analysis, which could lead to mutual recognition of national

⁴⁷⁶ Annex VI

⁴⁷⁷ Leaflet provided by UKEB

⁴⁷⁸ Q754

⁴⁷⁹ Annex I

⁴⁸⁰ *ibid*

⁴⁸¹ Annex VI

⁴⁸² Kristin Dawkins, “Ecolabelling: Consumers' Right to Know or Restrictive Business Practice?”

ecolabels in the future. We emphasise that international standards should be high, leading to upward harmonisation rather than a “lowest common denominator”.

Forest certification and timber labelling

221. While the EU ecolabelling scheme seems to have had very little impact on producers, retailers or consumers to date, the same cannot be said for initiatives to protect the rainforests and promote sustainable forestry. Because of efforts by groups like Friends of the Earth—who placed large inflatable chainsaws in the car parks of DIY stores to bring home the message that British retailers were stocking timber from tropical rainforests⁴⁸³—Malaysia lost half its European market for timber.⁴⁸⁴

222. These campaigns were so effective in discouraging the purchase of tropical hardwoods that both timber producers and governments took action to improve their standards of forestry. International standards for sustainable forestry are being developed in several fora, including the International Tropical Timber Organisation, the Intergovernmental Panel on Forests and the International Standardisation Organisation, and several countries, including Canada⁴⁸⁵ and the United Kingdom,⁴⁸⁶ have their own policies and guidelines. As a result of these initiatives, the campaign against tropical hardwoods has died down and there is now a general consensus that high environmental standards should be applied to all forests, both tropical and temperate.⁴⁸⁷

223. During our visit to the Far East we noted the efforts that were being made to ensure that logging is carried out sustainably. In Malaysia, loggers may take only seven to ten trees per hectare, and felled areas of the “productive forest” are replanted. All logs are marked with a white tag to show which forest they have come from, and sawmills—such as the one we visited near Kuala Lumpur—are regularly inspected by government officials who check for illegal unmarked timber. In spite of these efforts, and the introduction of stringent penalties for forestry offences, illegal logging persists in some areas. Thailand has introduced a complete ban on logging but again, this is difficult to enforce. The Malaysians resent criticism of their forestry practices by countries which underwent rapid economic development, destroying large areas of forest in the process, long before concern for the environment had become an issue, and it was clear that although the tropical timber campaign by Western pressure groups had influenced some governments’ forestry reforms, the negative trade effects of this campaign had led to a souring of relations which are only now being repaired.⁴⁸⁸

224. Large expanses of forest are destroyed each year through accidental fire. Most of the felling in countries like Malaysia and Brazil⁴⁸⁹ is carried out either to produce timber for the domestic market or to clear land for agriculture,⁴⁹⁰ so efforts to restrict trade, besides stirring up resentment, are a relatively ineffective way of promoting sustainable forestry. However, the rewards from tropical timber exports can be valuable, and so can form the crucial element in the economics of opening up virgin forest. Therefore we were very interested to hear of a new voluntary initiative which has received support from some of Britain’s major retailers.

⁴⁸³ Annex II

⁴⁸⁴ Annex I

⁴⁸⁵ App 1

⁴⁸⁶ App 3

⁴⁸⁷ Annex I

⁴⁸⁸ *ibid*

⁴⁸⁹ Q694

⁴⁹⁰ Annex I

THE FOREST STEWARDSHIP COUNCIL CERTIFICATION SCHEME

225. During our visit to B&Q we learned of the Forest Stewardship Council (FSC) scheme for the certification of sustainable forests. The FSC is a voluntary, non-governmental body supported by WWF and other environmental groups. Its objectives are to develop detailed standards for sustainable forestry, tailored to each individual country, and to supervise and accredit the commercial companies such as SGS (*Société Générale de Surveillance*) which carry out the practical work of forest certification.⁴⁹¹

226. At the moment, FSC certification is in its infancy and there is very little timber available which bears the FSC logo. Nevertheless, some of Britain's largest retailers, including B&Q, WH Smith and Boots, have joined the "WWF 1995 Plus" group of companies which have committed themselves to stocking only FSC-certified timber by the year 2000. These companies together sell 30 per cent of all paper and timber products bought in the United Kingdom⁴⁹² and because of their considerable purchasing power, the paper industry views this initiative as a restraint of trade.⁴⁹³

227. The Brazilian Ambassador was not particularly concerned about the trade effects of the FSC scheme, mainly because only a small percentage of Brazilian timber is exported.⁴⁹⁴ However, according to the Paper Federation of Great Britain, "the international forest industry is not terribly thrilled with the Forest Stewardship Council."⁴⁹⁵ The Canadian government, while not opposed to the concept of certification, felt that "while the FSC approach lends itself to tracing exotic species in small quantities, it is very difficult to implement in the industrial world of commercial timber, pulp and paper."⁴⁹⁶

228. Several witnesses, including the Brazilian Ambassador, the Canadian Government, the Paper Federation of Great Britain and the Timber Growers Association, objected to the FSC on the grounds that it is "undemocratic" and does not consult national governments or the timber industry.⁴⁹⁷ However, the strongest criticisms concerned the potential cost of certification for British and other temperate forests. The Timber Growers Association wrote of a "tripling or quadrupling of management overheads" and claimed that in certain countries, the application of FSC sustainability criteria would involve a 15 to 25 per cent reduction in the economic returns from forestry.⁴⁹⁸ Shortly before the publication of this Report, we learned that the Timber Trade Federation regards the FSC scheme as a restrictive trading agreement and has threatened to approach the Office of Fair Trading and the European Commission (see Box 10).

229. B&Q told us that 80 per cent of the timber they stock comes from the United Kingdom, and the Forestry Commission has predicted that "the FSC's standards for UK forests will be crucial in determining market access for UK woodland owners". While the Forestry Commission is not opposed to a system of certification, they too are concerned about the potential cost, having noted that the FSC discussion paper on British forests proposes "a large number of requirements additional to existing regulations and standards". The Forestry Commission has therefore asked the FSC not to impose additional requirements if existing UK regulations are found to be compatible with the FSC's Principles and Criteria.⁴⁹⁹ This approach was supported by the Secretary of State, who considered that the Forestry Commission's response had been both constructive and enterprising.⁵⁰⁰

230. We regret that at the Rio Summit the proposal on forestry standards concerned

⁴⁹¹ Q92; Annex II

⁴⁹² Annex II

⁴⁹³ Q666

⁴⁹⁴ Q694

⁴⁹⁵ Q659

⁴⁹⁶ App 1

⁴⁹⁷ Q694; App 1; Annex II; Timber Growers Association (Ev not printed)

⁴⁹⁸ Timber Growers Association (Ev not printed)

⁴⁹⁹ App 3

⁵⁰⁰ Q816

Legal Axe Hangs Over FSC Scheme

The FSC scheme to encourage stores to sell only sustainably produced timber is an illegal barrier to trade under both EC and United Kingdom law, claims the Timber Trade Federation.

The head of the Federation has written to WWF and the companies that have signed up to the scheme, demanding changes "before the Office of Fair Trading and the European Commission are approached". He warns that the companies could face claims for damages and fines for entering into a restrictive trade agreement.

According to the Federation, the commitment of the WWF 1995 Plus Group to sell only certified timber by the year 2000 is "a restrictive trading agreement within the scope of the Restrictive Trade Practices Act 1976" and infringes the Treaty of Rome. The Federation argues that the Group should broaden its scope to include timber certified under any recognised accreditation system.

B&Q, one of the leading members of the scheme, has angrily rejected the Federation's demands. They say it would be confusing and counterproductive for the store to use more than one kind of ecolabel on its timber, and are backing the FSC because "it is applicable across the whole world, it has credibility with environmental groups and above all, it exists."

B&Q believes there is no question of any FSC monopoly or restraint of trade. However, the WWF's senior forest officer is taking the threat seriously and seeking legal advice. If the Federation pursues the matter through the courts, it will find itself up against some of the biggest names in British retailing and will also be acting against four of its own members who are also members of the WWF group.

Source: New Scientist, 18 May 1996

Box 10

only tropical forests and was therefore rejected. We wish to see the establishment of an internationally recognised system of standards for sustainable forestry, and are concerned that existing national schemes may make it difficult to achieve a worldwide standard.

231. We commend the Forest Stewardship Council and the WWF 1995 Plus group of companies for their commitment to sustainable forestry. Until worldwide standards for sustainable forestry are established, we approve the use of the Forest Stewardship Council scheme and recommend that the Forestry Authority enter into negotiations with the Forest Stewardship Council in order to encourage Forest Enterprise and other major forestry owners in the United Kingdom to join the scheme.

232. We also recognise that because of the cost of FSC certification, it will not be feasible for all forests to be certified to FSC standards. Adherence to the guidelines developed by the International Tropical Timber Organisation, International Standardisation Organisation and Intergovernmental Panel on Forests might prove to be a more practicable way of raising forestry standards on a national scale, particularly in developing countries where resources are limited and timber is an important source of income.

The scope for voluntary initiatives

233. B&Q has also set up its own sustainable forestry project in Papua New Guinea, which is described in Box 11 below.

B&Q: the Bainings Project

As part of its effort to ensure that all timber came from sustainable sources, B&Q set up the Bainings project in the rainforest of Papua New Guinea (PNG). PNG is unusual in that the tribal peoples own the forest surrounding their villages, but they were being exploited by Japanese and Malaysian logging companies who were buying up the forest at a fraction of its worth, then logging it in a destructive manner. Rather than selling their forest, B&Q encouraged the villagers to manage and log it themselves, providing them with a mobile saw mill and thus supporting a community of 350 people.

This has been portrayed as an unqualified success: the villagers now receive \$250 per cubic metre of timber rather than the \$2 paid by the Japanese and Malaysians, while B&Q, through cutting out the middle man, pay no extra for the wood products. B&Q also have full confidence that the forest is being managed sustainably: the Bainings people harvest only specially-selected trees which are sparsely distributed around the forest, compared to the traditional industrial scale logging operations which harvest at much greater densities.

The wood from Bainings is used for a range of mouldings which are sold in B&Q stores. The project supplies less than 0.1 percent of B&Q's estimated net timber consumption, but this is seen as only a start, and the company wishes all its suppliers to operate in similar environmentally-friendly ways.

Source: Committee Visit to B&Q, Wandsworth

Box 11

234. B&Q's environmental projects demonstrate how effective voluntary initiatives can be in raising environmental standards overseas without hindering the flow of international trade. We recommend that the Government publicise the benefits to the private sector of an "environmentally friendly" purchasing policy and encourage industry and retailers to initiate further schemes of this kind. However, we are conscious that small-scale schemes such as the Bainings project, whilst intrinsically worthwhile, do not have a significant impact on the global scale.

Environmental standards and competitiveness

235. As explained in Section 3 above, environmental costs are only a small proportion of industry's total costs, and there is no evidence that industries are deliberately migrating to take advantage of low environmental standards. In fact, the Secretary of State considered that improved environmental standards make British industry more competitive—this is particularly true for the environmental technology industry⁵⁰¹ and we observed at first hand how British water companies have obtained major contracts in Malaysia and Thailand.⁵⁰²

236. Nevertheless, concerns about competitiveness can hinder governments' efforts to raise environmental standards. For example, WWF told us that when the Dutch government revealed plans to introduce a carbon tax, Shell and other large corporations threatened that their next tranche of foreign investment would not be in the Netherlands.⁵⁰³ Similarly, the Paper Federation of Great Britain told us that their industry might "drift out of the UK, and possibly out of Europe altogether" if an EU carbon/energy tax were introduced.⁵⁰⁴ It should be noted that this attitude is not typical of British industry: the Secretary of State reported that many industrialists were "in the forefront of arguers in favour of environmental action".⁵⁰⁵

⁵⁰¹ Q804

⁵⁰² Annex I

⁵⁰³ Q128

⁵⁰⁴ Q156

⁵⁰⁵ Q808

Border tax adjustment

237. In order to overcome industry's opposition to environmental taxes, WWF has proposed a system of Border Tax Adjustment.⁵⁰⁶ This involves adjusting the price of imports and exports at the border to ensure that products and processes are subject to the same degree of taxation, regardless of origin.⁵⁰⁷ Paul Ekins suggested a more radical system of countervailing duties, which would compensate industries for any loss of trade brought about by rising national environmental standards.

238. Border tax adjustment could be particularly useful in smoothing the introduction of taxes to internalise transport and energy costs, only half of which are currently reflected in the prices of goods and services.⁵⁰⁸

239. The majority of the evidence we received did not lend support to policies of this kind. While the OECD agreed that competitiveness concerns might hinder the introduction of cost-internalising environmental taxes, they have not found any systematic relationship between environmental taxes and competitiveness.⁵⁰⁹ In their oral evidence, the OECD described how environmental taxes have worked very successfully in Sweden, leading to a 30 to 45 per cent reduction in sulphur dioxide and nitrogen oxide emissions. Because of the perceived impact on competitiveness, energy intensive industries only paid 25 per cent of the tax at first: however, it was found that the trade impact had been overestimated and these industries will now be charged 50 per cent of the tax.⁵¹⁰

240. The Department of the Environment explained how border tax adjustment undermines the "polluter pays principle": the whole point of environmental taxes is to internalise environmental costs, and if the tax is refunded on exports or applied to imports this objective is compromised.⁵¹¹ For example, if companies were given a rebate on the landfill tax in proportion to their exports, they would have less incentive to reduce waste.⁵¹² Oxfam explained that developing countries could well view border tax adjustment as disguised protectionism—a view that was endorsed by UNCTAD⁵¹³—and in any case, there are significant practical difficulties in calculating the rate at which the tax should be applied.⁵¹⁴ Industrial representatives such as the Business and Industry Advisory Council to the OECD,⁵¹⁵ the United States Council for International Business⁵¹⁶ and the International Council of Chemical Associations⁵¹⁷ were also opposed to any form of countervailing duties.

241. The Secretary of State pointed to three ways in which Government can make the introduction of new environmental legislation more acceptable to industry: ensuring that new regulations are realistic; making sure that regulation is the most appropriate mechanism to achieve the environmental objective; and sending "missionaries" to show companies how they will benefit from the environmental changes.⁵¹⁸

242. Our evidence indicated that border tax adjustment is unlikely to be an acceptable way of overcoming concerns about competitiveness. However, certain British industries are voicing strong objections to the introduction of some of the new environmental measures and we therefore urge the Government not to give in to these; for example,

⁵⁰⁶Ev p39

⁵⁰⁷Ev p46

⁵⁰⁸WWF, "Environmental Taxes and Charges and Border Tax Adjustment—GATT Rules and Energy Taxes"

⁵⁰⁹European Commission Communication on Trade and Environment, February 1996

⁵¹⁰Q446

⁵¹¹Q167

⁵¹²Q24

⁵¹³App 9

⁵¹⁴Ev p46

⁵¹⁵BIAC Statement on International Trade and the Environment

⁵¹⁶Annex IV

⁵¹⁷International Council of Chemical Associations, "Position Statement on Trade and Environment"

⁵¹⁸Q808

efforts to reduce carbon dioxide emissions by taxing the energy used in transport and industry should continue. We also encourage the Government to persist in its efforts to inform industry of the commercial benefits of good environmental management.

Harmonisation of standards

243. Dan Esty recognised that the main obstacle to introducing environmental taxes is that “there is a real first mover’s disadvantage” and that collective action would solve the problem.⁵¹⁹ The concept of international harmonised standards as a means of overcoming competitiveness concerns met with widespread support from our witnesses, being advocated by the Department of the Environment, the OECD, the European Commission, Oxfam and ICI.⁵²⁰ In fact, the process of harmonisation is already happening in the EU⁵²¹ and other regional free trade areas, as described in Section 3.

244. The main obstacle to international harmonisation is the inability of developing countries to achieve the environmental standards of the west: the Brundtland Commission estimated that in the early 1980s, developing countries exporting to the OECD countries would have incurred costs in excess of \$5 billion if they had been required to meet United States standards.⁵²² This obstacle could be dealt with in three ways: the European Commission suggested that optimal environmental policies might require differentiated environmental standards among countries,⁵²³ while Oxfam would favour the setting of minimum standards for all, but with a resource transfer mechanism to enable poorer countries to meet the cost of compliance.⁵²⁴

ISO 14000

245. The third approach to harmonisation is to apply a flexible environmental management standard which does not contain prescriptive requirements as to the level of emissions or type of technology to be used. Environmental management standards have been developed in the UK and EU, and on the global level the International Standardisation Organisation is making progress with its ISO14000 series.

246. This option has met with considerable support among developing countries such as Singapore⁵²⁵ who have become actively involved in the standard setting process. Industry, too, is enthusiastic about the ISO standards.⁵²⁶ However, the OECD view industry’s enthusiasm with caution and told us of complaints from environmentalists that the ISO standards are not strong enough to protect the environment. Instead, they merely “reflect the views of the business community of what they can achieve”—a suspicion that was borne out by our discussions with British businessmen in Singapore.⁵²⁷ Friends of the Earth were particularly concerned that members of ISO committees are drawn chiefly from industry, with environmental and consumer groups being poorly represented.⁵²⁸ The Regional Institute for Environmental Technology pointed out that ISO14000 requires, as a minimum, compliance with local legislation, but—as we discovered in Malaysia and Thailand—although there may be stringent environmental legislation in the statute book, enforcement is often weak in developing countries.⁵²⁹

⁵¹⁹Q335

⁵²⁰OECD “Report on Trade and Environment”, 1995; Q93; Q27; European Commission Communication on Trade and Environment, February 1996

⁵²¹Q27

⁵²²Ev p44

⁵²³European Commission Communication on Trade and Environment, February 1996

⁵²⁴Ev p44

⁵²⁵Annex I

⁵²⁶OECD “Report on Trade and Environment”, 1995

⁵²⁷Annex I

⁵²⁸Ev p123

⁵²⁹Annex I

HARMONISATION OF PRODUCT STANDARDS

247. The Technical Barriers to Trade Agreement of the WTO deems the application of international standards such as ISO to be acceptable under GATT. WTO members must use the international standards as a basis for national technical regulations “except when such international standards or relevant parts would be an ineffective or inappropriate means for the fulfilment of the legitimate objectives pursued, for instance because of fundamental climatic or geographical factors or fundamental technological problems.”⁵³⁰ This means that higher national standards can be imposed where there is a good environmental justification. Friends of the Earth were nevertheless concerned that in the future, national environmental standards could be deemed technical barriers to trade if they were stricter than the ISO standards (particularly where the reason for a higher national standard was consumer preference)⁵³¹ and feared that the development of new ISO standards could lead to a downward harmonisation of standards to a “lowest common denominator”. However, we were encouraged to hear that within Mercosur, the impetus for harmonisation was upward rather than down.

248. We recognise the considerable difficulties involved in developing harmonised international standards for environmental management and for products, but note that this means of creating a level playing field has found widespread acceptance both in developed and developing countries, in government and in industry. We urge the International Standardisation Organisation to support existing high national environmental standards, and to ensure that its work does not result in a downward harmonisation of environmental standards. The ISO14000 standards should be awarded only to those who have demonstrated a clear commitment to environmental improvement and where there is clear evidence that the standards are enforced.

⁵³⁰WTO Agreement on Technical Barriers to Trade, Article 2

⁵³¹Ev p123

SECTION 5: PROPOSALS FOR INSTITUTIONAL REFORM

249. The previous section of this Report considered some of the main items on the agenda of the WTO Committee on Trade and Environment, suggesting how the trade rules could be modified so that they do not stand in the way of efforts to protect the global environment. Although witnesses like Oxfam, WWF and Dan Esty supported this “greening of the GATT”, in their view it will not be sufficient to rectify the underlying imbalance between the international trade and environment regimes. For example, Dan Esty commented that under the current GATT rules “if a trade principle and an environmental principle bump into each other, the trade principle will trump...we need a more refined mechanism for weighing the virtues of trade principles and environmental principles when they conflict.”⁵³²

Criticisms of the WTO Committee on Trade and Environment

250. Whilst environmentalists were keen to participate in the WTO Committee on Trade and Environment (CTE), they did not consider it to be the ideal forum for the joint consideration of trade and environment issues, for the reasons discussed below.

INEFFECTIVE?

251. Dan Esty was critical of the slow progress made by the CTE. In his opinion, the CTE “has done rather little to advance the integration of trade and environmental objectives”.⁵³³ He went on to comment that “it would frankly be one’s best guess that virtually nothing could be agreed upon in Singapore on the trade and environment front. Even more than that, I think one would have to ask whether the CTE should have its mandate renewed, given how little it has done.”⁵³⁴ Some of the speakers at the Global Environment and Trade Study conference, held at New York in January 1996, were also of the mind that little or nothing would be achieved on environment at Singapore, although this pessimism was not universal.⁵³⁵

UNBALANCED?

252. Dan Esty, Oxfam and Friends of the Earth were all concerned that a Committee of the WTO could not give equal weight to environment and trade considerations. Esty believed that “one of the difficulties with the CTE process is that it is trade types talking to trade types... I do not think you get a mix of views, and certainly the trade and environmental officials are not on an equal footing when they meet in Geneva.”⁵³⁶

253. One particular area of concern is the fact that, if GATT Article XX is amended as suggested by the European Commission, the WTO will be responsible for judging whether an MEA meets the criteria for exemption from GATT. Friends of the Earth was convinced that decisions concerning the validity of trade measures for environmental purposes should be made, not by the WTO, but by “an institution with authority, legitimacy and a broad mandate that encompasses trade, environment and sustainable development.”⁵³⁷ However, when we questioned the Secretary of State for the Environment on this issue he defended the WTO and drew parallels with the World Bank, an organisation which has successfully incorporated an environmental perspective into its primary function of banking.⁵³⁸ ICI also felt that the WTO was the right organisation to make judgments on the validity of environmental trade measures.⁵³⁹

NARROW IN SCOPE?

254. Oxfam and WWF considered that the agenda of the WTO Committee on Trade and

⁵³²Q219

⁵³³Ev p100

⁵³⁴Q314

⁵³⁵Annex IV

⁵³⁶Q312

⁵³⁷Ev p126

⁵³⁸Q785

⁵³⁹Q564

Environment was too narrow, overlooking some of the issues which are most important to developing countries. Oxfam, for example, wished to see the terms of reference for the Committee being broadened to encompass the concept of sustainable development, addressing issues such as low commodity prices, escalating tariffs and international debt.⁵⁴⁰

255. Whilst some witnesses wished to see the WTO becoming more of a "sustainable development organisation", others pointed out that the WTO's rather narrow focus on trade has been one of the factors accounting for its effectiveness. Steve Charnovitz, whilst pressing for greater integration between trade and environment policy, believed that "allowing the WTO to get distracted to other aims will render it less effective in combating protection"⁵⁴¹ and the WTO itself was insistent that the key to moving along the WTO work programme will be ensuring that it remains strictly within the competence of the WTO.⁵⁴²

The international environmental regime

256. The WTO, whilst determined to stick to its trade mandate, had no objection to environmental protection *per se* and commented that the WTO's work "will be helped immeasurably by progress made elsewhere on the multilateral environmental policy agenda".⁵⁴³ Section 2 of this Report listed the various intergovernmental organisations with an interest in the global environment. Dan Esty appeared to be unimpressed with their achievements, writing that "in contrast to the international trade regime centred in the GATT, the management of international environmental affairs has little structure and is marked by policy gaps, confusion, duplication, and incoherence."⁵⁴⁴

A Global Environment Organisation?

257. In the view of analysts like Dan Esty and Steve Charnovitz, the key to achieving a proper balance between trade and environment is not "greening the GATT" but "GATTing the greens": establishing an integrated global environmental regime which would be just as powerful and effective as the WTO in achieving its objectives. (This proposal is particularly topical at a time when the role of UN agencies is being reevaluated and the United Kingdom Government is coming to conclusions about its future relationship with those agencies.)⁵⁴⁵ The WTO could be left to carry on with its important work of trade liberalisation, referring environmental policy issues to the new organisation. Dan Esty commented that environmentalists are "fixated on changing the rules and procedures of the GATT" and so have "largely failed to consider the possibility that restructuring environmental policy mechanisms offers a more sound basis for protecting environmental values."⁵⁴⁶

258. Both Esty and Steve Charnovitz proposed that the UN environmental organisations be dismantled and a new Global Environment Organisation be created in their place.⁵⁴⁷ Charnovitz suggested that the Global Environment Organisation could be a tripartite body with representatives from governments, business and non-governmental organisations. According to Dan Esty, a Global Environment Organisation would be the ideal solution to several of the trade/environment conflicts discussed in the previous section of this Report. For example, it could establish a global system of environmental regulation so that environmental taxes could be introduced throughout the world at the same time and no country would suffer a competitive disadvantage by being the "first mover."⁵⁴⁸ A Global Environment Organisation could also carry forward the process of international harmonisation of standards, as recommended by Oxfam.⁵⁴⁹ Most importantly, it would ensure that the trade interests did not have the final say, dealing with the environmentalists' complaint that "the GATT

⁵⁴⁰ Ev p42

⁵⁴¹ Steve Charnovitz, "Improving Environmental and Trade Governance"

⁵⁴² Ev p72

⁵⁴³ *ibid*

⁵⁴⁴ Dan Esty, "Greening the GATT"

⁵⁴⁵ Official Report, col 501, 27 February 1996

⁵⁴⁶ Dan Esty, "GATTing the Greens"

⁵⁴⁷ Steve Charnovitz, "Improving Environmental and Trade Governance"; Q317

⁵⁴⁸ Q335

⁵⁴⁹ Ev p51

addresses environmental standards that are argued to be too high, potentially deeming them unacceptable barriers to trade. But the GATT provides no mechanism for deeming environmental standards to be too low, creating an unfair trade advantage based on the externalising of environmental costs.”⁵⁵⁰

259. It was not only the environmentalists who wished to see a more effective international environmental regime. ICI told us that “a more focused and consistent approach to environmental issues would benefit both trade and the environment” and would like to see an environmental organisation modelled on the WTO or International Maritime Organisation, both of which, in ICI’s view are well focused and have a unified code of practice.⁵⁵¹ They fear a “proliferation of random Multilateral Environmental Agreements”⁵⁵² and to illustrate their point produced a chart which shows how the proposed Prior Informed Consent agreement will involve interaction between a whole series of existing conventions administered by different international organisations.⁵⁵³

260. Although highly enthusiastic about the concept of a Global Environment Organisation, Dan Esty and Oxfam both recognised that it is a long term vision rather than a short term solution:⁵⁵⁴ such a powerful organisation would not be welcomed at present, primarily because of the political unacceptability of removing sovereignty for the environment from nation states.⁵⁵⁵

Alternative proposals for reform

261. Some of the most influential witnesses to our inquiry were not in favour of a radical restructuring of the environmental regime. The European Commission was not willing to go too far in “rocking the international boat” and managed to describe all the existing organisations as “important” or “influential”.⁵⁵⁶ Similarly, the DoE, while keeping a watching brief on the various bodies to ensure they are not duplicating each other’s work, is still “inviting environmental debate in very many arenas” and is “much keener to see a good articulation in relationships than argue that some bodies should not consider the environment in their trade-related deliberations.”⁵⁵⁷

A STRONGER UNEP?

262. Rather than supporting the idea of a completely new body, several witnesses, notably the Department of the Environment and the European Commission, contended that one of the existing organisations, namely UNEP, already acts as a “global environment organisation”, though conceding that it is in need of strengthening. Margaret Brusasco of DGXI expressed the opinion that “UNEP, with its environmental expertise, is the one organisation within the UN system which can be the counterbalance to the WTO... UNEP has 20 years of environmental expertise, very considerable expertise”.⁵⁵⁸

263. On the negative side, UNEP is currently facing a funding crisis⁵⁵⁹ and because of its location in Nairobi, has difficulty in attracting top quality staff,⁵⁶⁰ although its trade and environment unit is actually situated in Geneva.⁵⁶¹ The Secretary of State defended the siting of UNEP in Africa and was determined that it should remain there.⁵⁶² The quality

⁵⁵⁰Dan Esty, “Greening the GATT”

⁵⁵¹Q567

⁵⁵²Q564

⁵⁵³Q572

⁵⁵⁴Q132; Dan Esty, “Greening the GATT”

⁵⁵⁵Q318

⁵⁵⁶QQ471-475

⁵⁵⁷Q31

⁵⁵⁸Q474

⁵⁵⁹Q471

⁵⁶⁰Q316

⁵⁶¹Q471

⁵⁶²Q800

of UNEP's management and administration has also been criticised,⁵⁶³ and several governments, including the United Kingdom Government, recently sponsored a Decision which requires UNEP's Executive Director to present proposals for reform to its next Governing Council in January 1977. Dan Esty was particularly severe in his criticism of UNEP, saying that it is "beyond salvation" and that "we would do better to abolish it and start over than to try and fix it".⁵⁶⁴ However, the Department of the Environment is confident that the refocusing of UNEP's work programme will give it the opportunity to "reaffirm its role as the principal global environmental monitor and the key voice for the environment within the UN system".⁵⁶⁵ The United Kingdom Government demonstrated its commitment to UNEP by donating £4.5 million at the beginning of this year.⁵⁶⁶

AN INTERNATIONAL EXPERT PANEL?

264. WWF⁵⁶⁷, Oxfam,⁵⁶⁸ Friends of the Earth⁵⁶⁹ and Steve Charnovitz⁵⁷⁰ all proposed that an international panel of experts on trade, environment and sustainable development be established to take forward the debate on trade and environment. This could draw on experts from all the existing organisations concerned with both environment and trade, including the WTO, UNCTAD, UNEP and UNCSD. Oxfam's evidence stated that "What is needed is an international regulatory system which safeguards the environment and provides opportunities for sustainable development, without jeopardising legitimate trade interests. ...an Intergovernmental Panel on Trade and Sustainable Development.. could make a significant contribution to developing such a system, and would ensure that both trade and non-trade mechanisms relevant to sustainable development (including investment flows, technology transfer and debt relief) are considered together in the same forum."⁵⁷¹ Oxfam and Dan Esty envisaged that the Panel could serve as the precursor of a Global Environment Organisation:⁵⁷² it could also develop into an effective replacement for the WTO Committee on Trade and Environment.⁵⁷³

265. Two of the major advantages of the panel are that it could be set up immediately and at relatively low cost.⁵⁷⁴ The WWF has already gone some way in its efforts to set up a panel. They reported to us that "we have received money from five governments, we have a commitment from the European Commission too, we have three-quarters of the money we need to run an expert panel of 12 to 18 people for one year. The United Kingdom declined to contribute."⁵⁷⁵ When challenged on the United Kingdom's response, the Secretary of State for the Environment explained that several of the proposals that the Panel planned to work on—such as trade disincentives and new grain trade preferences—would reduce rather than increase trade, and so were not the type of initiatives which the Government wished to fund.⁵⁷⁶

266. The idea of an expert panel is not novel: for example, successful intergovernmental panels on forestry and climate change have already been established.⁵⁷⁷ Section 2 of this Report described how the OECD's Joint Session of Trade and Environment Experts, with its even balance between trade and environment interests, has been very successful in analysing

⁵⁶³Ev p213

⁵⁶⁴Q316

⁵⁶⁵*op cit*

⁵⁶⁶Q801

⁵⁶⁷Q137

⁵⁶⁸Ev p51

⁵⁶⁹Ev p124

⁵⁷⁰Steve Charnovitz, "Improving Environmental and Trade Governance"

⁵⁷¹Ev p43

⁵⁷²Q137, Q318

⁵⁷³Q314

⁵⁷⁴Q132

⁵⁷⁵Q137

⁵⁷⁶Q802

⁵⁷⁷Q367

trade/environment conflicts and formulating acceptable policies.

267. The success of the OECD's Joint Session of Trade and Environment Experts in analysing trade and environment conflicts and producing policy guidelines illustrates the value of considering trade and environment issues on a balanced footing. We support the concept of an International Panel of Experts on Trade, Environment and Sustainable Development, which we believe could take forward thinking on trade and environment on a worldwide scale. This Panel should include representatives from both OECD and developing countries and could become the main policy-making forum on trade and environment.

268. We commend the WWF for its initiative in setting up and securing funds for the establishment of an International Panel, but are concerned that its agenda has deterred the United Kingdom from contributing. We therefore encourage the WWF and United Kingdom Government to enter into further discussions to establish whether a mutually acceptable agenda can be agreed. If these discussions are successful, we look to the Government to reconsider its decision not to fund the Panel.

The final authority

269. At present, the final say in whether an environmental measure is compatible with the world trading system rests with the WTO. For example, the proposals by which GATT would be amended to allow trade measures taken pursuant to MEAs (see para 185 above) would involve the WTO in deciding whether an MEA qualified for exemption from GATT, according to the criteria set down in a new Understanding. However, a new Global Environment Organisation, with equal authority to the WTO, would not automatically bow to the WTO's decisions. While this situation would mean that trade no longer automatically "trumps" environment⁵⁷⁸ it would be much more difficult to resolve any clashes between the trade and environment regimes.

270. WWF has suggested that the International Court of Justice could be given ultimate authority to judge in such a situation.⁵⁷⁹ However, this would remove yet more sovereignty from nation states. Dan Esty considered that "the view that we should handle everything on a nation state, sovereign basis runs directly contradictory to environmental facts" and predicted that countries may be eventually be obliged to surrender sovereignty by an environmental crisis.⁵⁸⁰ He also pointed out that the WTO already gives way to the judgements of other organisations: for example, it refers to IMF judgements on whether countries should be allowed out of their trade obligations because of balance of payments difficulties.⁵⁸¹

Looking to the future

271. This Report has concentrated primarily on the conflicts between trade and environment policy which are currently standing in the way of sustainable development. However, although "trade and environment" is a relatively recent item on the international agenda, we noted that some governments and organisations had already taken innovative steps to integrate trade and environmental concerns, particularly on the regional scale. Section 3 of this Report described how the European Union, NAFTA and Mercosur are structured so that trade concerns do not necessarily take precedence over environmental concerns and during the course of this Inquiry, we learned of proposals for additional free trade areas, such as APEC in the Asia Pacific area,⁵⁸² and a new agreement between the United States and Chile.⁵⁸³ It is hoped that the lessons learned in these regional free trade areas will be applicable at the global scale.

⁵⁷⁸Q319

⁵⁷⁹WWF, "Sustainable Development and Integrated Dispute Settlement in GATT 1994"

⁵⁸⁰Q318

⁵⁸¹Q324

⁵⁸²Annex IV

⁵⁸³Q300

272. In Section 4 of this Report we examined some of the ways in which voluntary information-based initiatives such as ecolabelling can raise environmental standards without unduly restricting trade. We believe that the provision of accurate and readily comprehensible environmental information to consumers, coupled with a wide availability of choice, is a key to overcoming some of the most difficult "trade and environment" dilemmas, such as the clash between animal welfare considerations and the need to maintain a free and fair trading system.

273. In spite of the progress achieved so far, the conflicts between trade and environment interests will persist if developing countries are not able to obtain the resources they need to bring their standards of environmental performance up to the standard expected by the rest of the world. The establishment of a more authoritative Global Environment Organisation or a balanced Expert Panel will not solve the problems unless it is able to ensure an adequate flow of resources from North to South. It is of vital importance that developed countries honour their Rio commitments if trade liberalisation is to work to the good of the environment in years to come.

Bibliography

B&Q, "How Green is My Front Door?", B&Q's second environmental review, July 1995, available from Quality & Environmental Department, B&Q plc, Portswood House, 1 Hampshire Corporate Park, Chandlers Ford, Eastleigh, Hampshire SO53 3YX. Tel: 01703 256256. Fax: 01703 257480

Brack, Duncan, "Trade and Environment: A Brief Guide to the Issues", Royal Institute of International Affairs (RIIA) Briefing Paper No. 23, July 1995, available from RIIA, Chatham House, 10 St James' Square, London SW1Y 4LE. Tel: 0171-957 5700. Fax: 0171-957 5710

Business and Industry Advisory Committee (BIAC) to the OECD, "BIAC Statement on International Trade and the Environment" (undated), available from BIAC, 13/15 Chaussée de la Muette, 75016 Paris

Charnovitz, Steve, "The WTO Panel Decision on US Clean Air Act Regulations", in *International Environment Reporter*, 6 March 1996

Charnovitz, Steve, "Improving Environmental and Trade Governance", in *International Environmental Affairs*, Volume 7, No. 1, Winter 1995

Dawkins, Kristin, "Ecolabelling: Consumers' Right to Know or Restrictive Business Practice?", Global Environment and Trade Study Paper #95-3, January 1996, available from Institute for Agriculture and Trade Policy, 1313 Fifth Street SE, Suite 303, Minneapolis, Minnesota 55414-1546

Ekins, Paul, "Harnessing Trade to Sustainable Development", Green College Centre for Environmental Policy and Understanding, March 1995, available from Green College, Radcliffe Observatory, Oxford OX2 6HG. Tel: 01865 311038. Fax: 01865 311764

Esty, Daniel C, "Greening the GATT", Institute for International Economics, Washington DC, July 1994, ISBN 0 88132 205 9

Esty, Daniel C, "Towards a Greener GATT", in *International Economic Insights*, March/April 1994

Esty, Daniel C, "GATting the Greens", in *Foreign Affairs*, Volume 72 No. 5, November/December 1993

European Commission Communication to the Council and the Parliament on Trade and Environment, 28 February 1995 (COM(96)54), available from the European Commission.

Friends of the Earth, "Intellectual Property Rights and the Biodiversity Convention: The Impact of GATT", February 1995, available from Friends of the Earth, 26-28 Underwood Street, London N1 7JQ. Tel: 0171 490 1555

Friends of the Earth Briefing Sheet, "Trade Secrets: Transparency and Accountability in International Trade", December 1993, available from Friends of the Earth (address as above)

Friends of the Earth, "Positive Incentives, Sustainable Commodity Production and the OECD: a Constructive Approach to the Integration of Trade, Environment and Development Policies", informal discussion paper prepared for the OECD Trade and Environment Seminar, 30 June 1993, available from Friends of the Earth (address as above)

ICI, "Environmental Performance 1994", available from Dr Richard Robson, Environmental Communications Manager, ICI, 9 Millbank, London SW1P 3JF. Tel: 0171-834 4444. Fax: 0171-834 2042

International Council of Chemical Associations, "Position Statement on Trade and Environment", 11 April 1995, available from the Chemical Industries Association, Kings

Buildings, Smith Square, London SW1P 3JJ. Tel: 0171-834 4469. Fax: 0171-834 4469

Lee, Dr J, Santiago, S and Ghobadi, A, "Environmental Trade Measures: How Much is Enough?", paper prepared for Global Environment and Trade Study Conference, January 1996, available from School of International Service, The American University, Washington DC

Linneman, H and Kox, H L M, "International Commodity-Related Environmental Agreements as an Instrument for Sustainable Development", ICREA Research Project, June 1995, available from Free University Economics Department, De Boelelaan 1105, 1081 HV Amsterdam, The Netherlands

Munasinghe, M and Cruz, W "Economywide Policies and the Environment: Lessons from Experience", World Bank Environment Paper No. 10, January 1995, available from the World Bank, 1818 H Street N W, Washington, DC 20433, USA

OECD Environment Policy Committee and Trade Committee, "Report on Trade and Environment to the OECD Council at Ministerial Level", 9 May 1995 (COM/ENV/TD(95)48/FINAL, available from the OECD, 2 rue André-Pascal, 75775 Paris, Cedex 16, France

Public Citizen's Global Trade Watch, "NAFTA's Broken Promises: The Border Betrayed", January 1996, available from Public Citizen Publications, 1600 20th Street NW, Washington, DC 20009, USA

Shrybman, Steven, "Trading Away the Environment", in *World Policy Journal*, Winter 1991/92

Subramanian, A and Uimonen, P, "Trade and the Environment", in *International Trade Policies: the Uruguay Round and Beyond (Volume II)*, International Monetary Fund (IMF), Washington DC, 1994, ISBN 1 55775 457 8

UNCTAD, "Environmental Policies, Trade and Competitiveness: Conceptual and Empirical Issues", Report by the UNCTAD Secretariat, March 1995, available from UNCTAD, Palais des Nations, 1211 Geneva 10, Switzerland

UNCTAD, "Newly Emerging Environmental Policies with a Possible Trade Impact: A Preliminary Discussion", Report by the UNCTAD Secretariat, 28 August 1995, available from UNCTAD (as above)

Wigzell, Sophia, "Trade and Environment: Thailand and Ecolabelling" (first draft), Thailand Environment Institute (TEI), 1994, available from TEI, Bangkok, Thailand

Wirth, David A, "International Trade in Wastes: Trade Implications of the Recent Amendment to the Basel Convention Banning North-South Trade in Hazardous Wastes", Discussion draft prepared for Global Environment and Trade Study Conference, New York, 19 January 1996, available from Community Nutrition Institute, 910 17th Street, #413, Washington DC 20006

Woolcock, Steve, "Trade and Ecolabelling: Subsidiarity at Work?", mimeograph from London School of Economics Centre for Research on the USA

World Business Council for Sustainable Development (WBCSD), "Trade and Environment: a Business Perspective", 1996, available from WBCSD, 160, route de Florissant, CH-1231 Conches, Geneva, Switzerland

World Wide Fund for Nature (WWF) International Discussion Papers:
"Taxes for Environmental Purposes: The Scope for Border Tax Adjustment under WTO Rules", October 1995

“The UN Biodiversity Convention and the WTO TRIPS Agreement”, June 1995, ISBN 2 88085 178 5

“Agriculture in the Uruguay Round: Implications for Sustainable Development in Developing Countries”, January 1995, ISBN 2 88085 163 7

“Environmental Taxes and Charges and Border Tax Adjustment—GATT Rules and Energy Taxes”, September 1994

“South-North Terms of Trade, Environmental Protection and Sustainable Development”, July 1994, ISBN 2 88085 157 2

“Sustainable Development and Integrated Dispute Settlement in GATT 1994”, June 1994, ISBN 2 88085 150 5

All of the above are available from WWF International, Avenue du Mont-Blanc, CH-1196, Gland, Switzerland

ANNEX I**VISIT TO SINGAPORE, MALAYSIA AND THAILAND****19-25 April 1996****Participants:**

Mr Andrew F Bennett (Chairman)
Mr Geoffrey Clifton-Brown
Mr Harold Elletson
Mr Bill Olnet
Sir Irvine Patnick
Mr Michael Stephen
Mr Matthew Taylor
Mr Roy Thomason OBE

Mr Steve Priestley (Clerk)
Mrs Caroline Hand (Specialist Assistant)

Thursday 19 April, SINGAPORE**Briefing discussion with High Commissioner and British businessmen**

On arrival in Singapore, the Committee met Clive Mason (Deputy Director, Regional Institute of Environmental Technology); Robert Howard (Director, Aspinwall Clouston); Lucy Candlin (Aspinwall Clouston); Tony Elliott (SE Asia Regional Manager, Chelsea Environmental); Geoff Piggott (Binnie Projects Pte Ltd); Colin Campbell (Montgomery Watson); David Glover (Director, Economy and Environment Programme for South-East Asia); Gareth Thomas (Director, Chemitreat Pte Ltd); Dr Ralph Rayner (Director, Wimpey Environmental); and Mr Lee Ngow (Safety, Health and Environment Manager, BP). The discussion began with an introduction to Singapore by the High Commissioner, Mr Gordon Duggan.

In many ways Singapore is unique among Asian nations. It is the sixth wealthiest country in the world, with its wealth doubling every eight years. Much of this wealth is built on free trade (the value of exports is three times the GDP). Whilst Singapore is completely open to multinational companies, both economy and society are closely directed by the Government. Singapore sees itself as the hub of the region, providing high quality telecommunications, infrastructure and financial services for the whole of the ASEAN region.

Unlike its ASEAN neighbours, Singapore has no major environmental problems. Polluting activities such as pig farming have moved out of Singapore to Malaysia, and because Singapore's high quality infrastructure and political stability make it so attractive to multinationals, the Government is able to exclude the dirtier industries in favour of clean, high-tech manufacturing.

In Singapore, the high environmental standards have been achieved through both stringent regulation and economic incentives. Pressure for improvement has come from the Government rather than environmental NGOs. Urban development is strictly controlled, and car ownership is restricted by the requirement for a ten-year "certificate of entitlement" which effectively doubles the price of the vehicle. A road pricing scheme limits car access to the central business district during peak hours and has been successful in eliminating congestion. Standards for emissions to air are the same as those in Switzerland, and Singapore has a sophisticated sewerage system. The clean environment is viewed as a good selling point for the city as it seeks to promote its services throughout the region.

Many companies—particularly the multinationals—are seeking accreditation to ISO 14000

(environmental management) in order to enhance their competitiveness in the world market. The ISO standard has found widespread support among Asian manufacturers, perhaps because it is rather 'dilute' and can be obtained despite poor levels of enforcement: Asian countries therefore view ISO as a solution to the perceived technical barriers to trade created by Western environmental standards.

Singapore does not consider itself to have any responsibility to influence the environmental policies of its neighbours. The businessmen's view was that economic pressures will eventually force up environmental standards in the rest of the region. However, in an effort to overcome its problems of land shortage Singapore has established industrial estates in Suzhou (southern China) and Batam island, which will function as "mini-SingAPOres" with the same standards of infrastructure and cleanliness as the island itself.

The businessmen had seen no evidence that neighbouring countries were serving as "pollution havens"; it is cheap labour, rather than environmental laxity, which attracts multinationals. In any case, Singapore's high environmental standards have not discouraged the petrochemical companies. The businessmen's perception was that it tends to be the small, locally owned companies, rather than multinationals, which fail to comply with environmental standards in those countries where enforcement is weak.

Friday 19 April, SINGAPORE

Breakfast Briefing with the Regional Institute of Environmental Technology (RIET)

The Committee breakfasted with Mr Clive Mason (Deputy Director); Dr Loh Wah Sing (Co-Director); Mr Andrew Young (Project Co-ordinator); Rufus Bellamy (Publications Manager) and Mr Martin Rickerd of the British High Commission.

RIET is a non-profit organisation set up in 1993 as a joint initiative of the European Commission and Singaporean government. Its main aim is to bring together European suppliers of environmental technology, training and consultancy services with their potential customers in SE Asia, thus achieving a transfer of knowledge and clean technology which should benefit the Asian environment. This session gave a useful insight into how Western environmental standards are viewed by Asian companies.

The Asian market for environmental technology is fragmented, reflecting the different stages of development reached by individual countries. Many countries have bypassed the stage of "command and control" environmental legislation, with the result that the demand for clean technology is market-driven. This has led to a sudden transition from very polluting to very clean industries in some places.

RIET did not perceive ISO14000 to be a low standard. Its baseline requirement is that companies comply with local environmental legislation, and as in SE Asia this is generally based on European or US standards, compliance should produce considerable environmental improvements. Asian countries are taking an active interest in the development of ISO standards, as indicated by the attendance of 500 delegates at this year's conference on the international standard for ecolabelling. By participating in the standard-setting process, SE Asian countries hope to overcome the potential barriers to trade created by Western environmental standards (for example, the EU ecolabel is seen as a threat).

Enforcement is a very sensitive issue in the region, particularly in countries like Indonesia where the Government does not want to place any obstacles in the way of industrialisation. There is a shortage of trained enforcement staff and existing inspectors face considerable hostility—six inspectors were recently murdered in the Philippines. The dissemination of clean technology through market mechanisms is therefore seen as a more realistic way of raising environmental standards. Another encouraging trend is the great demand for training, particularly in environmental auditing.

British environmental consultants lead the field internationally; but in the sphere of technology, the British market is fragmented and companies need to become more proactive.

RIET is working together with the Environmental Industries Commission to help British companies increase their exports to the region.

Visit to Tech Semiconductors Pte Ltd

In order to assess the impact of the Montreal Protocol on electronics manufacturers in Singapore, the Committee visited Tech Semiconductors. The company is a consortium made up of Texas Instruments, Singapore's Economic Development Board, Canon and Hewlett Packard.

Close by the Tech factory, the Committee observed a construction site for Singapore's new Light Rapid Transit system. When this is completed, it will provide a convenient and non-polluting transport link for the factory employees.

On arrival at the factory, Sunny Chan (Vice President, Site Services) gave a presentation about the company and its products. In 1994 the company was awarded the "Semiconductor International" prize for the world's top fabrication plant. A company video demonstrated the scientifically advanced techniques employed in the manufacture of "d rom" wafers.

Chen Kok Sing, the Facilities Manager, outlined the company's philosophy on environment, health and safety, and Mr V Bala, Senior Safety Officer, described the safety policy in more detail. The safety standards are comparable to those of any major Western company.

Margery Luhur, Senior Environmental Engineer, then described Tech's environmental policy and standards. Tech has implemented a programme to eliminate Class I ozone depleting substances—formerly used in chilling—plus a number of highly toxic chemicals. During 1994, the chillers were retrofitted and all ozone depleting substances eliminated. Tech explained that their high environmental standards, equivalent to those of California, did not place them at a competitive disadvantage; rather, the high standards benefitted the company by reducing the risk of a serious pollution incident. The managers were uncertain as to whether all Tech's competitors have eliminated CFCs and indicated that this is unlikely to be the case; however, this has not had any effect on Tech's commercial success.

Meeting with the Minister for Trade and Industry, Yeo Cheow Tong

The Minister was accompanied by two senior officials from the Ministry of Trade and Industry: Mr S Iswaran (Director) and Mr Wong Toon Joon (Assistant Director).

The Minister explained how, in the case of Singapore, high environmental standards have not acted as a deterrent to industrial investment. Although Singapore's competitors may tolerate lower standards of environmental performance, any competitive advantage this may bring is far outweighed by the benefits derived from Singapore's excellent infrastructure. The Singapore government provides certain incentives for inward investment, including tax rate reduction; these are focused on industries or activities which Singapore needs, such as research and development. There are no subsidies for environmental compliance, and although some companies have complained about the stringent standards, the Government feels itself under no pressure to respond to these complaints.

Singaporean companies which operate abroad are not compelled to adhere to Singapore's standards, although "moral suasion" is applied in order to uphold Singapore's clean reputation.

Singapore is opposed to trade-restrictive environmental standards based on processes and production methods. Their own standards are therefore unlikely to fall foul of WTO rules: for example, the national ecolabel is based solely on product characteristics. Where transboundary pollution is a problem—as with the recent forest fires in Indonesia—Singapore's solution is to talk to the governments involved, recognising the resource limitations of other Asian states.

The Minister emphasised developing countries' fear of "green protectionism" and was insistent that efforts to protect the environment should not affect other countries. His hope for the Singapore WTO ministerial meeting was that developing countries' concerns would be given equal weight to those of the developed world.

Meeting with the Minister for the Environment, RAdm Teo Chee Hean

The Minister was accompanied by the following senior officials from the Ministry of Environment: Mr Tan Gee Paw (Permanent Secretary); Mr Tan Teng Huat (Director, Environmental Policy and Management Division); Mr Khoo Seow Poh (Head, International Environment and Policy Department); and Mr Eng Wee Hua (Chief Engineer, Policy Department).

The Minister saw no conflict between free trade and environmental protection. In Singapore, the wealth created by trade and industrial development has enabled investment in environmental infrastructure—such as the island's sewerage system. The Trade and Environment Ministries work closely together and the Trade Ministry abides by the Environment Ministry's decisions to exclude certain companies which would present an unacceptable pollution threat. In the past, industries such as lead smelting, coal processing and paper manufacture have been turned away.

There was some question as to whether the need to encourage trade discourages the enforcement of CITES. Twelve million containers pass through the port each year (ie approximately 30,000 per day) so it is impossible to check them. Another problem for Singapore is its total dependence on fossil fuel. They have not yet acceded to the Climate Change Convention although an inventory of carbon dioxide emissions has been compiled.

Enforcement of environmental legislation is strict and, as in the UK, industries are liable for pollution damage even where they are not at fault. To illustrate the Government's readiness to prosecute, the Minister referred to a case where the Singapore Petroleum Company (partly state owned) was fined \$150,000 following an oil spillage.

Singapore and Malaysia have set up a Joint Committee on the Environment to tackle transboundary pollution in the Johor Strait, and this is expected to produce an action plan within the next few months.

Discussions with Officials from the Ministry of the Environment and the Ministry of Trade and Industry

After the Minister withdrew, Mr Iswaran, Mr Tan and their colleagues answered questions posed by members of the Committee. They were joined by three officials from the Ministry of Trade and Industry: Mr S Iswaran; Mr Wong Toon Joon; and Mr Thomas Cheong (Deputy Director). Ms Yong Siew Min and Ms Sharon Tio from the Trade Development Board also joined the discussion.

This discussion gave the Committee an opportunity to ask more detailed questions about the issues which had been raised with Ministers.

Singapore acceded to the Montreal Protocol in 1989 and to the London amendments in 1993; compliance with the requirements of each is reported to be on schedule. Singapore was historically a high user of ozone depleting substances but has responded to strong international pressure by making large reductions in consumption to the point where it is now close to levels which apply throughout the developed world. Singapore has a possibly unique system of tradeable quotas in ozone depleting substances. Its Finance Ministry also offers tax incentives for the safe decommissioning of old equipment. In fact, reclamation of CFCs from old refrigeration and air conditioning equipment makes economic sense. However, Singapore perceives a threat in the form of an increasing trade in old refrigerators: these are exported to developing countries which at present lack the means to decommission them safely.

There is a range of environmental tax incentives in Singapore, from the standard differential on duty as between leaded and unleaded fuel to more complex arrangements for businesses. However, the latter are not seen as in any sense compensation for the imposition by the authorities of high environmental standards, but as an incentive for companies to comply with those standards. Officials downplayed the significance of the cost of compliance with environmental measures, suggesting it was only one of a range of costs faced by industry and not the most important at that.

Singapore has not experienced any significant problems in complying with the three major Multilateral Environmental Agreements. However, although the officials were able to give two examples of tourists—one caught smuggling eggs and the other, birds—who had been arrested, the Committee gained the impression that Singapore is not very proactive in its enforcement of CITES. The Government takes action when tipped off but is unable to carry out detailed checks on containers or tourists. Singapore is not opposed to an MEA on domestically prohibited goods (DPGs) as long as the agreement is confined to transparency provisions; but the officials were wary of possible export controls. In their view, a DPG agreement should not compromise the fundamental principles of free trade.

The officials would like to see the WTO addressing the incompatibility of MEAs and the WTO rules. They were convinced that there is a “virtuous linkage” between free trade and higher environmental standards and were of the opinion that no consensus will be reached in the WTO until this basic relationship is acknowledged.

Singapore does not seek to ‘export’ its high environmental standards to other countries in the region, preferring to leave it to each country to determine its own standards and priorities. However, an exception to this policy operates in the ‘technology parks’ which Singapore has developed and operates in other countries, particularly in China. These parks are built to and run to Singapore standards, not only in respect of their impact on the environment but also in respect of the housing which is provided for the workforce; the intention is to replicate the Singaporean experience in another country and thereby to demonstrate what can be achieved. While there is no explicit intention that these standards should rub off on others, such an effect would not be unwelcome.

Other pressures on countries in the region to raise their environmental standards cited by the officials include the Regional Institute of Environmental Technology (see above) and a technology transfer centre which it is proposed to create in Bangkok.

The World Trade Organisation is not seen as an appropriate body to raise environmental standards; the Singaporean view is that the WTO should stick to trade matters. While it is accepted that trade and environment issues are linked, there is a very firm view in Singapore that trade considerations should not be subordinated to environmental considerations and there is a resistance to any institutional reforms which might be seen as likely to bring about such a situation. Nevertheless, it is conceded that trade restrictions on environmental grounds might on occasion be admissible as part of a package of wider measures.

Neither does Singapore support amendment of Article XX of the GATT. In Singapore it is felt that Article XX is strong enough already and that to allow more derogations from the WTO’s free trade objectives would be to weaken the organisation and what it stands for. Singapore prefers the alternative ‘waiver’ route, where exceptions supported by a two thirds majority of the WTO can be agreed, or use of the existing disputes procedure. There is a slight preference for the former of these, subject to various checks and balances being built in to the mechanism. Singapore is willing to work with the EU to achieve this.

Singapore sees its role in the WTO as a bridge between developed and developing countries. There is some co-ordination between Singapore and the other ASEAN countries, but they do not always act in concert.

The issue of carbon dioxide emissions was raised again. Although it has not yet ratified the international Convention on climate change, Singapore has made some efforts to save energy, such as introducing byelaws which require buildings to be oriented away from the full sunlight. Power stations, although fired by fossil fuels, are modern and efficient and

Singapore is self-sufficient in electricity. Singapore intends to move gradually in its effort to tackle carbon dioxide emissions.

In the ASEAN region as a whole, environmental awareness among the public has been growing. There remains a need for further education; public support is required if environmental legislation is to be effective. In Singapore, there is little activity by environmental pressure groups. Those groups which do operate find it best to do so quietly, within the system, as befits the local culture. Officials within the Singapore administration enjoy a high level of esteem and trust among the population and pride themselves on meeting popular concerns.

Car use is being reduced by two classes of measure: those which seek to control ownership; and those which seek to control use. A limit has been imposed on the growth in vehicle numbers; purchase of a car now requires a certificate of entitlement which is expensive to obtain and which expires after ten years and new car prices are very high. Use is controlled by high fuel duty and by restricted access to certain areas. It is hoped to introduce an automated scheme for controlling traffic in the city centre in 1997.

Challenged on the question of whether Singapore is in fact a developing country, Mr Iswaran referred to the OECD term of "advanced developing country". By some criteria, such as GDP per head, Singapore is very advanced but the full picture is more complex. About 40 percent of Singapore's population (comprising mostly older people) has received only an elementary education. There is little in the way of research and development carried out in Singapore. Until its economy has become more robust and there is long-term confidence in its future, Singapore would not wish to be thought of as a developed country.

Foreign ecolabels bear little weight with consumers in Singapore, and the Singaporeans are keen that their own label should be seen to be independent. The Singapore ecolabel has already been applied to several product groups include stationery, televisions, detergents, batteries and fluorescent lamps. The officials expressed concern about the potential effects on Singapore's competitiveness of overseas ecolabelling schemes based on life-cycle analysis (LCA); their preference would be the establishment of internationally agreed standards for ecolabelling.

Presentation by the Economy and Environment Programme for South-East Asia (EEPSEA)

The Committee's visit to Singapore concluded with an interesting presentation by David Glover of EEPSEA, who gave the "green economist's" perspective on the trade and environment debate.

EEPSEA was established in May 1993 to support training and research in environmental and resource economics. It provides fellowships and grants to SE Asian researchers, supporting them by holding meetings and giving access to publications. EEPSEA's research programme focuses on the internalisation of external environmental costs.

In David Glover's view, many attempts to explain environmental degradation have overlooked the real cause. Environmental problems occur both where there is overconsumption and where there is poverty, where there is rapid economic growth and where there is stagnation, where the market is unrestrained and where there is protectionism. Rather than any of these factors being responsible for environmental degradation, the underlying causes (in the language of economics) are market failure, intervention failure or policy failure. Resource depletion occurs where there is open access to resources (ie people do not pay to use natural resources such as forests); where environmental externalities exist (ie no price is put on environmental effects) and where there are market-distorting policies such as agricultural subsidies. As long as resources are not properly priced, economic mechanisms will not encourage conservation.

Because trade is not the root cause of environmental degradation, trade measures, in David Glover's opinion, are not the best way to tackle it, although they may be the most convenient

policy tool. The limitations of trade measures were illustrated by a case study of deforestation. Sixty percent of forest clearance in SE Asia is to create agricultural land or provide fuel, and of the trees which are logged commercially, two thirds remain in the country of origin. In fact, an import ban on tropical timber would affect only four percent of the timber logged.

Instead of trade restrictions, suitable domestic policies to overcome poverty and put an end to "open access" are what is needed. The specific problem of deforestation could be tackled either by increasing the fees paid by loggers (so the Government would have money for replanting) or giving the loggers responsibility for sustainable forest management, but instead, SE Asian governments have imposed export bans on logs. The effect of this, as with import bans, is to depress the prices of logs, so there is no incentive to invest in sustainable forestry. Domestic wood processing operations are also less efficient than those in the importing countries, so wood is wasted.

Mr Glover outlined some possible alternatives to trade measures. These included:

- improvement of domestic policies regarding land conversion and cutting wood for fuel, and
- granting communities the responsibility for forest management (as in Nepal, where reforestation is now taking place).

Tropical forests perform many important functions, including preservation of water supplies, storing carbon and protecting wildlife. If these services were given a monetary value, there would be greater incentive to preserve the forests, but some mechanism is needed to transfer resources between those who receive the benefits and those who are responsible for managing the forests. One mechanism would be for downstream users of water to pay "water fees" to the forest dwellers, enabling the forest people to buy kerosene for fuel instead of using wood. Another means of resource transfer is for major carbon dioxide emitters to pay the forest owners for the service of carbon storage: two US electricity companies are already paying to preserve forests in Costa Rica and Sabah.

EEPSEA has calculated that the cost of improving logging practices and compensating local people for not clearing the forest land for agriculture would be between US\$300 million and \$1.5 billion per year: although this is a large sum, it is considerably less than the \$150 billion currently spent by OECD countries on agricultural subsidies.

There is still a long way to go in putting these policy suggestions into practice. Governments need to be persuaded that a particular policy will bring economic benefits, so tradeable permits and environmental taxes might be acceptable. It is sadly the case that some countries do not acknowledge the need to protect the environment until a disaster occurs: for example, the severe floods and soil erosion in Thailand prompted the Government to take action, but it was "too little, too late". Forests are a lucrative source of revenue in Cambodia and Laos so it will be very difficult to limit deforestation there.

Saturday 20 April, MALAYSIA

Tour of industrial area in Petaling Jaya

After an introductory briefing at the High Commissioner's residence, the Committee was taken on a tour of Petaling Jaya by Mr Gurmit Singh, Executive Director of the Centre for Environmental Technology and Development Malaysia (CETDEM). This is a non-profit company funded by donations. Mr Singh formerly headed the Environmental Protection Society, one of the few environmental NGOs active in Malaysia.

The Committee observed the trade effluent drains outside several factories. Some of these were badly maintained and were corroded or clogged with litter. A local river, which receives the trade effluent, was seriously polluted with both domestic and industrial waste.

The local authority is responsible for the control of trade effluent but does not have sufficient resources to carry out adequate monitoring or enforcement. Low environmental standards are generally tolerated by residents, who are unwilling to complain to the enforcing authority. Waste water treatment in Kuala Lumpur has recently been privatised and is now managed by a consortium known as Indah Water. Mr Singh was critical of this private monopoly which, he said, because of a cash flow problem, had failed to provide sewerage to many homes in the city.

The tour was followed by a working lunch with representatives of environmental NGOs, including the Environmental Protection Society. Compared with 'green' groups in Europe, these NGOs are small, poorly resourced and do not command a great deal of public support. The environmental campaigners work on a voluntary basis in their spare time, directing their efforts mainly towards local pollution campaigns and conservation projects: explicit criticism of the Government is regarded as a sensitive matter in Malaysia, and in order to preserve their credibility as environmental spokesmen, environmentalists such as Mr Singh have to be careful to avoid political involvement. The NGOs are beginning to raise public awareness of environmental issues in Malaysia and are seeking to instill an appreciation of the natural world in children and young people.

Visit to Westport

In the afternoon the Committee was taken on a tour of Westport, a major new container port near Klang which is intended to rival Singapore. The visit began with a short presentation and video introduced by Michelle Chan, the PR manager. There followed a discussion with Mr Bala Kalimuthu (engineering), who gave the presentation, and Mr John Few (Head of Operations).

Westport is still under construction but its conventional cargo facilities became operational in 1994. It has superior, modern facilities and will be able to accommodate the world's largest ships. The two aims of the port are to handle domestic cargoes and to take some of the transshipment trade from Singapore. The port will be well integrated with the land transport network—new road and rail links are currently being constructed.

Malaysian law requires an environmental impact assessment (EIA) for all major projects and this had been completed for Westport. The Westport staff were not aware of any proposals for projects which had been turned down following an EIA. Westport is being built largely on reclaimed land, and the developers had taken care to dredge sand for the reclamation from the deep sea in order to minimise disturbance to the marine environment. The building project had also necessitated the clearance of some of the local mangrove swamps—seen as a necessary price of development.

While the Klang port authority provides an emergency response team to deal with accidents and spillages within the port, pollution at sea is seen as the Government's responsibility. As at Singapore, there is no systematic procedure of checking containers for illegal goods such as CITES specimens; because the containers must remain sealed, any examination would require X-ray machines which are considered to be unacceptably costly.

Sunday 21 April, MALAYSIA

Visit to the Forest Research Institute Malaysia (FRIM)

On arrival at FRIM, Dr Manokaran (Director, Division of Environmental Sciences) gave a presentation on forestry in Malaysia.

After outlining the global problems of deforestation, Dr Manokaran described the makeup of forest land in Malaysia. In Malaysia as a whole (including Sarawak and Sabah), 58 percent of the land is covered by natural forest: a total of 19.2 million hectares. Of this, 1.8m ha is in national parks (and therefore protected), 2.99m ha is "protective forest" which will never be logged and 1.0m ha is "productive forest" intended for sustainable logging. The remaining

3.3m ha of “stateland forest” is more likely to be cleared for development. If plantations are also classed as forest (as the Malaysians think they should be) the percentage of land under forest cover rises to 72.6 percent. The Prime Minister has promised that 50 percent of Malaysian land will remain under natural forest.

Malaysia has a National Forestry Policy, agreed in 1979, and a National Forestry Act passed in 1984. Forestry is the responsibility of the Ministry of Primary Industries and is overseen by a National Land Council made up of the chief ministers of Malaysian states and chaired by the Deputy Prime Minister.

Nine percent of Malaysia’s export income comes from timber: of this, only a fifth derives from logs, as Malaysia has developed its wood processing industry and now concentrates on exporting furniture and other wood products. The export of logs has been banned from Sabah. During the late 1980s and early 1990s, Malaysia’s timber trade was severely damaged by the campaign against tropical hardwoods in Europe and there is now a “Malaysian Timber Campaign” to campaign against tropical timber import bans. Because of the progress made on the global scale by the Intergovernmental Panel on Forests and the International Tropical Timber Organisation in setting standards for sustainable forestry, the campaign against tropical timber is now dying down. Malaysia’s main concern is that any standards for sustainable forestry should be applied to all timber, both tropical and temperate.

Loggers in Malaysia’s “productive forest” are only allowed to take between seven and ten trees per hectare. Some collateral damage occurs as a result of road construction and trees being accidentally knocked down: the Malaysians are experimenting with “helicopter logging” to overcome this problem.

Despite heavy fines for logging offences and the involvement of the military in enforcement, illegal logging remains a problem, particularly in remote areas. Criminals can leave the scene very quickly, often abandoning their machinery, but cannot be arrested unless they are caught in the act.

Dr Manokaran went on to describe the work of FRIM. Its mission is “to promote the sustainable management and optimal utilisation of forest resources by generating knowledge and technology through research, development and application.” Much of the land occupied by the institute was once degraded but has been successfully reforested—to such an extent that it now resembles primary forest. FRIM’s projects include: research into hill forests; management plans for mangrove areas; experimental plantings of commercial tree crops such as rattan; forest environmental management (including the prevention of soil erosion and watershed management); planting native trees in urban areas to “landscape the nation”; and finding uses for wood from rubber and oil palm plantations. Rubber trees were once used for firewood but as a result of FRIM’s work can now be made into attractive furniture (70 percent of Malaysia’s furniture exports are made from rubber wood).

FRIM has many links with Western academics and publishes its own journal, “Tropical Forest Science”. It welcomes visitors, particularly school children who are educated in environmental awareness.

Following the presentation, the Committee enjoyed a spectacular view of the rainforest from FRIM’s Canopy Walkway.

Monday 22 April, MALAYSIA

Visit to the Ministry of Science, Technology and Environment

The Committee met the Minister, YB Datuk Law Hieng Ding, who was accompanied by a team of MPs and officials with environmental responsibilities.

Malaysian Government policy, as expressed in the 1974 Environmental Quality Act and the Malaysian Development Plans, seeks to balance environmental and development interests. The Minister was keen to dispel any rumours about environmental mismanagement in

Malaysia.

Malaysia is a signatory to several Multilateral Environmental Agreements and strongly supports both the Basel Convention (including the ban on exports of hazardous waste to developing countries) and the proposed convention on Domestically Prohibited Goods. Malaysia is a party to the Montreal Protocol and was the first country to produce and review a Country Programme—their aim is to phase out CFCs by the year 2000. The Minister was concerned that the Montreal fund is not being supported by all developed countries, and mentioned that in 1994 the UK attempted to block the further implementation of this multilateral fund. Malaysia is also working towards membership of MARPOL (the international convention on the prevention of marine pollution): however, Malaysia does not have sufficient resources to implement the convention fully. The Malaysians are not concerned about how MEAs are administered—whether by the existing secretariats or a new international environment organisation—as long as they are effective in controlling pollution.

It was clear that Malaysia does not want the WTO to broaden its scope to include environmental concerns. Their view is that environmental measures should not impose conditionalities upon trade. Malaysia is very concerned about the potential trade effects of ecolabelling, particularly if the requirements of ecolabelling schemes are not made known to trading partners. When the issue of forestry was raised, the Minister emphasised that Malaysia has had a sustainable logging policy since 1984 and described some of the improved enforcement and logging methods which have been introduced since then.

Malaysia, like Singapore, does not attempt to influence the environmental policies of neighbouring countries through trade measures but relies on informal meetings to discuss transboundary pollution.

The Minister outlined Malaysia's environmental problems, notably water and air pollution. It is hoped that the recent privatisation of waste water treatment—soon to be followed by privatisation of solid waste disposal—will bring about environmental improvements more quickly than could be achieved by the public sector. The main source of air pollution is vehicle emissions: unlike Singapore, Malaysia does not have a policy of traffic reduction. It later emerged in informal discussion that the Government encourages car ownership in order to support Malaysia's motor manufacturing industry, but at the same time is very keen that all residents of Kuala Lumpur should use the new Light Rapid Transit system which is currently under construction.

The Malaysian government is seeking to increase public awareness of environmental concerns, through schools and the media. There is an established dialogue between the Government and NGOs, some of which participate in Government advisory bodies.

Finally, the Minister requested Britain's help in supplying Malaysia with environmental technology. Although Malaysia has successfully tackled pollution from the oil palm and rubber industries, there is a pressing need for waste treatment and air purification technologies.

Meeting with Members of the Malaysian Parliament

The Committee was invited to the Malaysian Parliament building to meet environmentally-concerned MPs from both Government and Opposition parties. The Malaysian MPs present were: Senator Dato Adam bin A Kadir (President of the Senate); Datuk Amar Dr Sulaiman bin Haji Daud (Minister of Education); YB Encik Ruhanie bin Ahmad; YB Dr G Leela Ram; YB Puan Rohani bte Karim; YB Dr L Krishnan; YB Dr Tan Seng Giaw; YB Dato Haji Mohamed Shukri bin Haji Mohamed; YB Encik Mohamed bin Abdullah; YB Senator Haji Rahim Baba; and YB Senator Puan Habsah bte Osman.

Dato Adam began by explaining that public awareness of environmental issues in Malaysia is increasing from a low base. There are some long-standing NGOs with a good record of contributing to policy debates but rapid economic development has recently introduced new pressures and tensions. Dato Adam himself is particularly concerned about the future of Malaysia's wetlands, but there is as yet little appreciation among the general public of the

seriousness of the situation.

Encik Ruhanie said that Malaysian MPs have two main environmental concerns: for the local environment, where the rainforests and the Malaccan Straits are the predominant issues; and for the global environment, in particular the role of the developing countries. He felt that both concerns boiled down to the question of how to balance economic development and environmental protection. In Malaysia, there is a strong feeling that developed countries' concern for the rainforests is insincere; international NGOs have behaved arrogantly and in ignorance of local traditions and conditions. Malaysia's position is that it has always been concerned to protect the environment and it resents what it considers to be unfair pressures from developed countries to ban timber exports or to change forestry practices. Malaysia as a nation is jealous of its sovereignty and independence.

Dr Tan noted that the Malaysian Government is committed to maintaining at least 50 percent tree cover. The opposition supports this commitment and the Government's development of sustainable forestry practices. However, there is some evidence of poor enforcement of good forestry practice in parts of Malaysia which has led to severe flooding and, possibly, climate change. That said, it is clearly the developed world which bears most responsibility for global environmental problems.

Dato Shukri described the role of Malaysian Members of Parliament as being to provide the legislative framework which will allow Malaysia to develop in a sustainable manner. For example, all new public works are subject to an environmental impact assessment and heavy fines or imprisonment have been introduced for those who break laws which regulate the environment.

Several issues were covered in the ensuing discussion. There is some evidence that Japanese companies were using countries in the region as a convenient base for polluting industrial processes in the 1980s but the situation has now been rectified and — in line with pressure from the public—all new investment has to be based on the achievement of high environmental standards. However, high standards are sometimes let down by poor enforcement. Some Malaysian MPs have been particularly critical of the Government's enforcement record and of the lack of inspectors. However, there is confidence that the situation is now improving and Malaysia resents greatly lectures from Western politicians whose countries underwent rapid economic development a long time ago before concern for the environment had become an issue.

Non-Governmental Organisations play a limited role in Malaysian society; in the case of environmental NGOs this is largely confined to educational activities and some practical schemes, such as recycling initiatives. International NGOs are suspected of being motivated by selfish (Western) considerations; there is some exasperation on the part of the Malaysians of their failure to persuade international NGOs and Western public opinion of the sustainability and appropriateness of their forestry practices. There is no environment committee in the Malaysian Parliament, although the opposition is pressing for one to be set up.

Malaysia would like the ASEAN countries to adopt a common set of environmental standards in order to reduce the impact of such standards on competitiveness and would also be prepared to support the creation of a global environmental organisation on the basis that membership would be open to all countries on an equal basis.

Meeting with the Minister of Primary Industries, YB Dato Seri Dr Lim Keng Yeik, and Ministry Officials

The Ministry of Primary Industries, set up in 1972, oversees Malaysia's production of commodities, including timber, and the discussion with the Committee centred around forestry.

The Minister took pains to defend Malaysia's environmental reputation against the criticisms of western environmental NGOs. During the UN Conference on Environment and

Development (UNCED) in 1992, Malaysia had opposed an international Forest Convention for fear that UNCED would become a “tropical forestry bashing session”. Now, however, they are no longer averse to a non-binding forestry convention and the Minister participates in the Intergovernmental Panel on Forests. The Minister opposed the idea of using trade measures to enforce the convention—or any other MEAs. He pointed out that the tropical timber trade only affects 10 percent of the forest area.

The Malaysian concept of sustainable forestry is to replant—either with forest trees or tree crops—after logging. Malaysia sees the International Tropical Timber Organisation as the only reliable forum on tropical forestry, and has resolved to implement the ITTO sustainable forestry target by the year 2000.

The campaign against tropical timber in Europe resulted in Malaysia losing 50 percent of its European market and now there is little demand to open up more forests for logging. Due to the decline in the rubber industry, the area given over to plantations is shrinking and new rubber trees are being planted within the forest. As more Malaysians leave the land to work in industry, there is less pressure to clear the forests for agriculture: smallholders are encouraged to plant trees on their land and some land is being converted back to forest, using indigenous species.

Malaysia has faced criticism over its treatment of forest tribes in Sarawak. The Minister explained that only 400 of the 9000 indigenous forest people are still fully nomadic, with the rest being “semi-settled”. These semi-settled people are encouraged to grow cash or tree crops as an alternative to destructive slash-and-burn rice cultivation.

The practical difficulties of enforcing forestry legislation were discussed at some length. The Minister emphasised the stringent penalties for illegal logging which now include a mandatory jail sentence. So far, only four contractors have been convicted: it is very difficult to prove that concessionaires are logging outside the limits of their licence. Malaysia would like to see more money being provided by developed countries to counteract the problems of poverty and greed which lie at the root of illegal deforestation, and the Minister expressed disappointment that the money promised at Rio had not materialised.

The Malaysians were rather suspicious of novel ideas such as the “carbon offset” payment schemes (whereby carbon dioxide emitters in the West make payments to forest owners in developing countries). Instead, they would like to see a general increase in investment in third world forestry.

The Minister did not agree that primary forest is a greater asset to the global environment than secondary forest. Because of its rapid growth rate, secondary forest absorbs more carbon dioxide (though it was conceded that primary forests are richer in biodiversity). His response to Western criticisms about the destruction of primary forest in Malaysia is that Europeans cut down their forests a thousand years ago, and Malaysians do not see why “dogmatic” or “extreme” environmental NGOs should deprive them of the benefits of development already enjoyed in the West. When pressed, he did agree, however, that the pressure from NGOs had been a contributory factor in Malaysia’s drive to improve standards of forest management.

Finally, the Minister urged the Committee to speak out against local government purchasing policies in the UK which exclude tropical timber.

Visit to the Maritime Institute of Malaysia (MIMA)

MIMA is a small institution set up in 1993 by the Malaysian Government as a focal point for maritime research. The researchers work closely with Government departments and agencies: this possibly explained why their responses to the Committee’s questions about the environmental impact of trade and economic development were somewhat guarded.

Some of the areas in which MIMA has had policy inputs are: sustainable development of marine resources; marine conservation; ecological services; and the prevention and

minimisation of marine pollution. MIMA has set up an "Integrated Ocean Government Policy" which brings together various Government agencies, the federal government and state governments.

The importance of developing an integrated policy was brought home when MIMA discovered that most of the pollution in the Straits of Malacca actually comes from the land. As part of its integrated approach to pollution control, MIMA has been working with the Ministry of Housing to tackle the problem of runoff from construction sites. One of the more difficult aspects of building an integrated policy is bringing together federal and state governments: the states are wary of any erosion of their sovereignty. Transboundary pollution between states, however, is not a great problem, as the states are based around separate river catchments.

The MIMA researchers were unable to comment in detail on the environmental impact of Westport but acknowledged that there is a lot of concern about mangrove loss in Malaysia. In the case of Westport, there was only one suitable site for a new port and the Government—keen to reduce reliance on Singapore—decided that development must take precedence over conservation.

Port Klang is Malaysia's premier port; safety and environmental protection there is a responsibility of the Ministry of Transport. In the last thirteen years, the Government has set up and operated three regional centres to oversee environmental concerns in the ports. Basic standards as set by the International Maritime Organisation are complied with, as are most international conventions, including those not yet signed or ratified by Malaysia. There is also a memorandum of understanding between Malaysia and its neighbours.

Economic development is concentrated on the West coast of peninsular Malaysia and this inevitably has meant some loss of mangroves. Concern for the future of Malaysia's wetlands has, however, been growing—in particular, mangroves of less than 50 acres are not controlled for development purposes and have suffered widespread encroachment and degradation. The Government is therefore designating some mangroves as protected areas; one such area is a RAMSAR site. Mangroves are important for prawn fisheries (although this is rarely on a commercial scale) and some provide fuel and food for local people. MIMA has been active in seeking to persuade developers not to damage these sites.

Malaysia has very stringent regulations controlling effluent discharge but it was hinted that these are not strictly enforced. As yet, MIMA has not observed any migration of industry out of Malaysia in response to higher environmental standards.

MIMA wishes to see marine pollution issues tackled at a regional level. The Malaysian Department of the Environment has been working on a set of standards but has been unable to make progress on securing the agreement of its neighbours. It is thought that all waters in the region would fail to meet EU standards.

Overfishing is another problem. There may also be other reasons why fish stocks have been falling but there is a lack of research and a limited understanding of the biology of local species. Malaysia has laws which govern the size of catches, mesh size and so on but lacks the data which would enable it to gauge their effectiveness.

Malaysia has been promoting itself as a tourist destination since 1990 and has achieved rapid growth in this sector. There is a general perception that this growth has had an environmental impact, but MIMA is not aware of any studies which demonstrate this. Too much untreated sewage is still discharged into coastal waters.

Tuesday 23 April, MALAYSIA**Visit to a Sawmill**

By visiting a small sawmill, the Committee was able to observe first hand how tropical timber is processed and how forestry protection legislation is enforced. The Committee was escorted around the sawmill by a representative of the Malaysian Timber Industry Board and by the grader at the mill. Members were also introduced to the sawmill's manager.

The sawmill deals solely in red Meranti wood, a native hardwood used for making window frames and doors. This wood is popular in the UK and fifty percent of the sawmill's exports go to Europe. The Meranti logs come from a variety of sources, from the state of Kelantan in the north of the peninsula to Perak and other areas to the south. Each log carries a small white tag which gives a detailed description of its place of origin. Illegally cut timber will not be tagged and can therefore be identified by the forestry policy officer, who inspects the sawmill once a week. Additionally, each log carries a distinctive hammer mark showing that the logger has paid the required royalty.

If an illegal log were found, the sawmill would be closed down and the manager would face a jail sentence. It was explained that some illegal logs are taken to illegal sawmills—mills which have supposedly closed down but are operated clandestinely—and others are processed using mobile mills. The timber thus produced is then sold to small companies on the black market.

Although the operators of licensed sawmills have a strong incentive to check their logs, they are obliged to buy logs by the lorryload and have no control over the loggers. The loggers take the best logs for themselves and sell them for veneer production. Nevertheless, the sawmill is a profitable operation as the price of the finished timber is double that of the logs. The skilled workers are paid well above the national average, reflecting both the level of skill involved and the hazardous nature of the work.

Wednesday 24 April, THAILAND**Meeting with the Minister of Science, Technology and the Environment, Khun Yingphan Manasikarn**

The Minister referred to the good relations which the United Kingdom and Thailand enjoy, particularly with regard to co-operation on environmental issues. The Thai Government is especially concerned about pollution and the Prime Minister has set up a special committee to deal with the severe traffic-generated pollution problem in Bangkok. Thailand has established good links with United Kingdom companies in the waste water treatment sector.

Thailand is concerned about the impact of trade on the environment and the Government has established a cross-departmental committee of officials to consider the issues. Thailand has ratified and complied with the Montreal Protocol and has signed the Basel Convention, which it expects to ratify shortly. There is a strong movement towards adoption of ISO 14000 in Thailand, partly due to a Government-funded publicity campaign. The Thai Government seeks close co-operation with the United Kingdom Government on these matters.

Public awareness of environmental issues is increasing, again partly due to official publicity campaigns which at present are concentrating on the encouragement of recycling.

The Government in Thailand sets minimum environmental standards with which industry is expected to comply. In setting these standards, it draws on the experience of other countries. Industry has expressed some concern through the Ministry of Industry over the potential effects of such standards on its international competitiveness, which has led to discussions at Ministerial level.

On forestry, Thailand does not support the setting of international standards; it is already

following sustainable forestry practices and is looking to involve local communities more closely in the management and replanting of forests in their areas.

Thailand's economic plan includes quality of life objectives which encompass environmental considerations, and sustainable development objectives. There is increasing co-operation between the United Kingdom, other EU countries and Thailand in the field of environmental technology.

Visit to the Thai Parliament

The Committee met Members of: the Committee on Environment; the Advisory Board of the Committee on Environment; the Committee on Economics; the Committee on Industry and the Advisory Board of the Committee on Industry. The Committee was welcomed by Mr Tinawat Marukpitak, Adviser to the Committee on Environment.

The Thai MPs admitted that Thailand's dramatic economic growth had been accompanied by environmental degradation, and early efforts to boost exports had overlooked the environmental impact of industrialisation. Bangkok's main problems are serious air pollution from traffic and construction; inadequate facilities for solid waste management; and water pollution, which is being combatted by the development of a major waste water treatment project. In rural areas, the main problem is resource depletion: forests are exploited and land and water resources badly managed.

The Thai government has taken these problems seriously. Logging was banned in 1989, and in 1992 a comprehensive set of environmental statutes came into effect, covering factory emissions, toxic substances, animal conservation and public cleansing, as well as general environmental protection. An urban planning law was passed 10 years ago but has still not been fully implemented. One of the roles of the Environment Committee is to follow up the implementation of environmental legislation. The environment is important to Thai people and will feature significantly in the coming election campaign for Bangkok Governor. Citizens can complain directly to the Environment Committee about issues that concern them.

The MPs were open about the gap between legislation and enforcement and explained that government policy is to take a gradual approach. Enforcement will not work unless people are first convinced that the laws are necessary: "too many laws won't make society happy". Two examples were given of how the gradual approach has succeeded: the national campaign to reduce cigarette smoking (which took 21 years) and the switch to unleaded petrol. NGOs have played a valuable role in bringing environmental issues to public attention. Perhaps even more significantly, Thailand's Royal Family has set a very good example of care for the environment: the King has set up demonstration projects for reforestation, wetland research and waste water treatment.

Thailand has signed up to the major Multilateral Environmental Agreements and takes its commitments seriously. The MPs were particularly concerned about trade in hazardous waste and would like to see an end to imports of waste from neighbouring countries. In the past, illegal shipments of waste have come into Bangkok; now, when this occurs, the vessel must return the waste to the country of origin. Thailand is working at the international level to tackle the problem of unwanted hazardous waste shipments: they are also working with London-based company Waste Management International to build a new hazardous waste treatment facility which will be 25 percent Government funded and 75 percent funded by the private sector.

Thailand is developing its own ecolabel, the "Green Label", which will be applied to exports. The MPs did not consider the EU ecolabelling scheme to be a threat to trade, provided countries like Thailand are properly notified about its requirements.

Working Lunch at the Thailand Environment Institute

The Thailand Environment Institute (TEI) is a non-profit, Non-Governmental Organisation which carries out policy research. As part of its Business and Environment Programme, the institute has carried out a detailed review of Trade and the Environment in Thailand, and their publication on this subject provides an excellent analysis of trade/environment conflicts confronting the country.⁵⁸⁴ TEI is a small organisation and seeks to act as a catalyst, encouraging co-operation between other bodies. It also acts as a secretariat for the Thailand Business Council for Sustainable Development, and has contacts with many businesses in Thailand.

During the working lunch, the Committee was able to discuss trade and environment issues with Dr Phaichitr Uathavikul (Chairman of TEI); Dr Dhira Phantumvanit (President of TEI); Dr Chaeyod Bunyagidj (Director, Business and Environment Programme); Dr Nonglak Pancharunti (Member of Committee on Environmental Management System and Assistant Secretary of Thai Green Label Scheme); Dr Sitanon Jesdapipat (Program Director); and Dr Pongvipa Lohsomboon (Assistant Secretary to the Thailand Business Council for Sustainable Development and the Thai Green Label Scheme).

Dr Sitanon Jesdapipat gave a presentation on the trade and environment debate, demonstrating that these issues are well understood in Thailand. A detailed discussion of the points raised can be found in TEI's publication "Trade and the Environment in Thailand", included in the memoranda of evidence to this Inquiry. He then moved on to discuss Thailand's position on trade and environment. Thailand has long relied on trade as a mechanism for growth and development, and 70 per cent of the annual budget for development comes from trade. Thailand is also a major market for imports from Japan, the EU and US.

Textiles are still Thailand's major export, although it is now a significant exporter of computers and other electronic goods, jewellery and plastic products. In spite of this product diversification, Thailand has not been able to diversify as rapidly in terms of its trading partners. Exports of rice and other agricultural products are declining as a percentage of total exports.

Thailand's rapid development has been accompanied by a tenfold increase in the generation of industrial hazardous waste, of which only 1.3 percent can be properly treated and disposed of. There are serious problems of soil erosion and declining soil fertility, and the forested area has declined from 40 percent to between 15 and 26 percent. While environmentalists consider these problems to be linked to free trade, trade advocates continue to insist that trade policy should "stand alone".

The Committee's attention was drawn to three environmental policy initiatives: privatisation of infrastructure; partnership between the public and private sector to promote voluntary schemes such as ISO14000 and ecolabelling; and the requirement that an Environmental Impact Assessment should be carried out for every major construction project. TEI admitted that Thailand is "better on paper than on the ground" when it comes to the implementation of environmental measures, and the enforcing authority responsible for monitoring compliance has recently changed its approach from "policing" to "advising" industry. The Ministry of Finance is seeking to introduce market-based instruments.

Past mistakes in forest policy, which allowed the encroachment of agriculture onto forest land classified as "degraded", have been acknowledged, and some reforestation is now taking place. Thailand will soon pass a new law which will allow communities to participate in reforestation.

Thailand is close to ratifying the Basel convention and is taking an active part in negotiating the climate change convention. It works within the forum of ASEAN, seeking to draw attention to environmental concerns as they relate to trade and investment decisions.

⁵⁸⁴ TEI "Trade and the Environment in Thailand" (not printed)

Dr Sitanon Jesdapipat ended his presentation by listing some key concerns for future debate. These were: the need to establish "common but differentiated responsibilities" in tackling global environmental problems; the fact that the worst polluters tend to be small and medium sized enterprises (some illegal) which are very difficult to control; and the problem of environmental measures acting as non-tariff barriers to trade. As more MEAs are introduced, there are likely to be more environmental trade measures which could come into conflict with WTO rules.

Dr Pongvipa Lohsomboon then gave a short presentation on Thailand's Green Label (ecolabel). The Thai eco-labelling scheme uses life cycle review in preference to life cycle analysis because the latter does not offer an internationally agreed methodology and imposes a heavy financial burden. The life cycle review is based on the system which has operated under the Blue Angel scheme in Germany for some years, although the Canadian and Japanese experiences have also been drawn on. Where there are relevant internationally agreed standards, these have been built into the criteria.

The product categories selected for ecolabelling are: recycled paper; products made from recycled plastics; energy saving fluorescent lamps; low energy refrigerators; low-pollutant emulsion paints; water economising flushing cisterns; low energy air conditioners; batteries containing no mercury; sprays containing no CFCs; and environmentally sound detergents. The first ecolabelled products will arrive in the shops during August.

The ecolabelling criteria have been established with Thailand's domestic environmental problems in mind, although it was suggested that any international criteria for ecolabelling should be targeted at global environmental problems.

The final part of the presentation considered how ASEAN as a whole approaches trade and environment issues. The official ASEAN-wide view is that trade and the environment are separate issues and that they should be dealt with separately. The position is further complicated, from the Thai perspective, by disguised protectionism on the part of the developed countries. Developing countries feel unable to trust their developed trading partners because of what they see as double standards; it was suggested that if mad cow disease had originated in the developing world, the EU would have banned beef imports years earlier.

Most environmental problems affect more than one country and so are best tackled on a regional or global basis. Thus Thailand hopes that the Basel Convention will put a stop to the trade in waste, much of which has passed through its ports. However, given that it is thought that much of this waste has originated in other ASEAN countries, it is important that all ASEAN states should implement the Convention. Dr Sitanon Jesdapipat mentioned the difficulties of checking exactly what is inside a container arriving at a port. On a global level, there is considerable concern lest environmental considerations take over the WTO and divert it from its primary task of promoting free trade.

The Thai Government does not therefore support amendment of Article XX of the GATT, partly because it fears that a precedent will thereby be set and that further exceptions would then follow. Thailand's position is that the WTO offers the best means of resolving any conflicts; it does not wish to see the creation of a new environmental counterweight to the WTO, preferring to see a strengthened UNEP fulfilling this role (without necessarily conceding that even this much may be necessary).

Thai environmental groups are looking at the possibility of using non-toxic pesticides and are encouraging food producers to follow organic methods which offer high returns on investment.

Bangkok's notorious traffic congestion and the pollution which arises from it is deemed to be capable of solution, but the necessary measures may be unpopular. These include road pricing and taxation, which in this case would not be regressive because the poor tend to use public transport which would attract new investment.

On tropical hardwoods, Dr Phaichitr's personal view is that all use of tropical hardwoods

should cease. Substitutes for hardwood should be sought out or developed and those people who are economically dependent on the trade in hardwood should be found alternative employment. This view is based on the perception that there is no evidence that any of the 'sustainable' forestry practices are in fact genuinely sustainable over the long term and that in any case requirements imposed by developed countries on timber producers are probably unenforceable.

The so-called "Turtle Dispute" between Thailand and the United States is causing little concern in Thailand, which feels that the US action clearly contravenes GATT and that its own practices are defensible. On CITES, there have so far been six prosecutions of foreigners who have broken Thailand's laws against trade in endangered species.

Thursday 25 April, THAILAND

Visit to Kung Krabaen Royal Development Study Centre, Chanthaburi Province

TEI's report on trade and environment in Thailand describes the environmental problems associated with commercial shrimp farming:

"Aquaculture, principally shrimp cultivation has taken off over the past decade, making Thailand the most important shrimp exporter in the region, and giving Thailand a 15 percent share of total world cultured shrimp production in 1991. Most shrimp production is for export... Aquaculture has developed as a booming business in coastal and inland areas and has brought with it its own environmental problems, including the destruction and clearing of ecologically vital mangrove forests, the pollution of water from industry wastes (including both organic waste and chemicals added to stimulate fish growth or prevent disease) and salt water intrusion of groundwater aquifers as water in areas near the coast is withdrawn for use in shrimp farms. The destruction of mangroves, critical in nutrient cycling and filtering, and important as fertile nursery areas for young fish, has negative repercussions on water quality and thus on the fish and wild crustacean populations themselves."⁵⁸⁵

The coastal area of Chanthaburi Province has experienced the problems described above, with adverse consequences for local fishermen and farmers. The Kung Krabaen project was initiated by His Majesty the King of Thailand as a demonstration project to show local fishermen and farmers how the coastal environment can be managed sustainably.

The Committee's visit to Kung Krabaen began with a slide presentation by Mr Wichien Sakares. He described the coastal management research programme of the centre, which involves:

- the study and development of aquaculture, including tiger prawns, oysters, mussels, cockles and fish
- raising tilapia fish in shrimp ponds as a natural way of eliminating waste
- formation of fishery co-operatives
- mangrove restoration and the conservation of the environment.

Kung Krabaen is also involved in agricultural development work, disseminating knowledge to local farmers about crops appropriate for the coastal zone, safe methods of pest control, and animal husbandry.

Following the presentation, the Committee was taken on a tour of the centre. Members observed recently planted mangroves along the shoreline — students visiting the centre are encouraged to help with the planting. The preservation of a strip of mangroves along the length of the coast ameliorates many of the destructive effects of shrimp farming: at Kung Krabaen, the shrimp ponds are located inland of the protective mangrove barrier.

The Committee was shown a typical shrimp farm, which had three ponds containing shrimps

⁵⁸⁵TEI "Trade and the Environment in Thailand" (not printed)

at various stages in their life cycle. About 100 farmers work at Kung Krabaen, and 70 percent of them make a profit. It is hoped that their success will inspire other local farmers to follow the example of sustainable aquaculture.

Visit to Laem Chabang Industrial Estate, Rayong Province

The Committee's stay in Thailand concluded with a tour of Laem Chabang, a self contained industrial estate established by the Industrial Estate Authority of Thailand in 1972. The visit commenced with a presentation by Dr Sarawoot Chayowan, Deputy Governor (Administration).

Laem Chabang is an integral part of the Thai government's Eastern Seaboard Development Plan, the aim of which is to foster industrial development in Thailand and the whole ASEAN region. The inadequate infrastructure and poor planning associated with past industrial development had created considerable pollution problems, and the Industrial Estate Authority of Thailand was set up in order to rectify this situation. The Authority provides each of its estates with a complete infrastructure, including electricity, water and waste disposal facilities. Further incentives for companies to relocate in the estates include tax concessions and for some, exemptions from import and export duties. There are two such industrial estates on the Eastern Seaboard: heavy industries such as chemicals manufacture are located at Map Ta Phut, while Laem Chabang is reserved for smaller, less polluting processes.

The Laem Chabang estate is divided into two zones: a general industrial zone containing 40 factories, and an export processing zone with 15 factories. It adjoins the Laem Chabang commercial port and has good traffic links to Bangkok and the rest of the country. Since the estate opened in 1990, industry has been quick to move in. Taken as a whole, the Eastern Seaboard plan has created 300,000 jobs and saved Baht400,000 million per year in foreign exchange.

A discussion on environmental management in the estate followed. The main problems are air pollution and hazardous waste disposal. While Thailand is making good progress in waste water treatment, air pollution control lags 10-15 years behind Europe and enforcement is weak. Hazardous waste management is held back by NIMBYism: the Thai government has been trying unsuccessfully for the last 10 years to build a hazardous waste facility and at present, each factory has to store its own waste. This situation has encouraged illegal dumping.

The high environmental standards of Laem Chabang were not seen as a threat to competitiveness; however, the Committee gained the impression that it is the newer, more prosperous companies, generally multinationals, which have located here, and foreign companies comply with (generally) US standards rather than the local legislation. Smaller, older local companies have remained in Bangkok, engaged in dirty but essential processes such as electroplating, and it is these which are likely to be put out of business if national environmental standards are enforced.

The Polluter Pays Principle operates at Laem Chabang, and although a central waste water treatment plant is provided, companies have to pay for their effluent to be treated. Highly polluting effluent must be pretreated at the factory before it can be discharged to the mains sewer.

Visit to Maxtor factory

After the presentation, the Committee was taken on a tour of the estate and stopped at Maxtor, a modern factory manufacturing "headstacks" (a component of computer disc drives). Maxtor is a subsidiary of a disc drive manufacturer in Singapore, and its ultimate owner is a Korean electronics company. Headstack manufacture is very labour intensive, so was moved out to Thailand where labour is much cheaper (\$2 per day as compared with \$6 per day in Singapore). The actual process is carried out to the same standards in Thailand as it was in Singapore.

Maxtor has eliminated the use of CFCs, following the lead of its parent company. This was

a costly operation as new machinery had to be developed to clean the components with water rather than freon. The manager admitted that he was not particularly interested in the environment and was only following orders—his personal opinion was that the CFC ban had been a commercial ploy by the manufacturers of the alternative cleaning equipment. He did not know whether any of Maxtor's competitors are still using CFCs.

Visit to waste water treatment plant

Laem Chabang is equipped with a modern waste water treatment plant, built as a joint venture between Thames Water and a Thai company, Berli Jucker. This receives trade effluent from all the factories on the estate. A system of discharge consents is in operation, similar to that of the UK, and each company must disclose the chemical composition of its effluent. This particular treatment plant produces final effluent of a similar standard to that expected in Britain, but older plants in Thailand would not achieve this standard.

ANNEX II

Tuesday 19 March 1996, VISIT TO B&Q AND THE UK ECOLABELLING BOARD

The party consisted of:

Andrew F Bennett (Chairman)

Neil Gerrard

Sir Irvine Patnick

Helen Jackson

Roy Thomason

Steve Priestley (Clerk)

Caroline Hand (Specialist Assistant)

James Cameron (Specialist Adviser)

Steve Woolcock (Specialist Adviser)

Visit to B&Q DIY Store, Wandsworth

On arrival at the B&Q Wandsworth store, the Committee was met by Dr Alan Knight, Quality and Environmental Controller, and Lorian Coutts, Public Relations. Dr Knight proceeded to give an illustrated presentation on B&Q's sustainable timber policy.

Presentation on B&Q's Timber Policy

Dr Knight described the development of B&Q's timber policy as a remarkable success story. In only five years the company has moved from being almost totally ignorant of the sources of its timber products to a position where 91 per cent of timber meets B&Q's stringent internal criteria and only 1 per cent is classed as a "critical failure".

B&Q became aware of the environmental implications of selling timber in 1990 when the company was linked with media reports of rainforest destruction. A turning point came when the Sunday Times conducted an inquiry into timber and B&Q were unable to tell them how much tropical timber it purchased—an ignorance which the public would certainly interpret as indifference towards the environment. Further impetus for change came from an increasingly environmentally-aware workforce and from Friends of the Earth's "Chainsaw Massacre" campaign, although by the time this campaign started, B&Q had its policy in place and management therefore felt able to cope with the presence of large inflatable chainsaws in the car parks.

B&Q took action by employing Dr Knight, whose first task was to canvass the various opinion formers including the Timber Trade Federation and interested NGOs. They presented him with conflicting information, and to get a true picture of the situation he visited a variety of forests, both tropical and temperate. It soon became apparent that a boycott of tropical timber was inappropriate: not only would this would deprive developing countries of vital revenue, it would also constitute unfair discrimination: while many tropical forests are well managed, unsustainable logging goes on in temperate areas such as Finland and Clayoquot Sound, Canada. B&Q therefore realised that their policy must be global in scope and must cover every timber product stocked. In September 1991 the policy was agreed by the Board.

Two initial targets were set: that by 1993, all timber should be from *known* sources, and by 1995, from *well managed* sources. Both these targets have been met. Dr Knight was faced with the task of identifying the source of every piece of wood or wood product (including wallpaper) purchased by B&Q. His early investigations revealed how misleading were many of the suppliers' claims: for example, in 1992 50 per cent of the suppliers claimed that their products were from sustainably managed forests, but when questioned 90 per cent of suppliers did not even know which country their timber came from. This led B&Q to insist on the

removal of all manufacturers' "ecolabels", which had in any case been regarded with cynicism by customers.

By the end of 1993, 96 per cent of the timber had been traced back to a forest region. Some surprising facts emerged—for example, half of B&Q's timber comes from the UK and more timber goes into wallpaper than their joinery range.

The internal scrutiny process

All B&Q's suppliers were given a percentage score for their timber purchasing policy, based on:

- the quality of the supplier's timber policy (a measure of how well they understood the environmental issues)
- the quality of information provided to B&Q
- the quality of the actual forest management, as far as could be judged from the information provided.

By the end of 1995, 91 per cent of products obtained the necessary 50 per cent score to pass this internal scrutiny. A further 8 per cent failed because the information provided was inadequate, although it appeared likely that the products came from sustainable forests, and only 1 per cent were genuine "critical failures". Suppliers whose products failed the test are being given a few months in which to improve, guided by B&Q's action plans. The minimum pass mark will rise to 100 per cent by 1999, when all products must be proven to have come from independently certified forests.

In order to meet B&Q's standards, it is estimated that 30 per cent of the suppliers changed the majority of their own supply base, sometimes on the instruction of B&Q. The greatest difficulties were encountered in tracing products which contained only a very small amount of wood, such as tools with hickory handles.

The Bainings project

As part of its effort to ensure that all timber came from sustainable sources, in 1990 B&Q set up the Bainings project in the rainforest of Papua New Guinea (PNG). PNG is unusual in that the tribal peoples own the forest surrounding their villages, but they were being exploited by Japanese and Malaysian logging companies who were buying up the forest at a fraction of its worth, then logging it in a destructive manner. Rather than selling their forest, B&Q encouraged the villagers to manage and log it themselves, giving them a mobile saw mill and thus providing revenue to support a community of 350 people.

This has been portrayed as an unqualified success: the villagers now receive \$250 per cubic metre of timber rather than the \$2 paid by the Japanese and Malaysians, while B&Q, through cutting out the middle man, pay no extra for the wood products. B&Q also have full confidence that the forest is being managed sustainably—when one of their suppliers was having difficulty tracking down the source of a small piece of wood used on bed headboards, Alan Knight was able to recommend that they purchase the wood from Bainings.

The wood from Bainings is used for a range of mouldings which the Committee later saw on sale in the store.

Independent certification and the FSC

While B&Q's internal scrutiny process ensured that the timber on sale came from known forests, management were concerned that a purely in-company procedure would not convince the consumers, 90 per cent of whom, it seems, do not believe retailers' "green" claims. A further problem was that B&Q are not experts in forestry, and even Friends of the Earth were unable to tell them how to identify a well managed forest. The answer was to seek independent certification.

Although a number of companies, particularly in the States, carry out forest certification, they have different standards and criteria and it would be difficult to identify a "cowboy" certification company. The need to "certify the certifiers" led to the creation of the Forest Stewardship Council, a non-governmental body set up on the initiative of the WWF which both sets standards for sustainable forestry and accredits the certifiers.

The FSC is based in Mexico and is funded by grants. It does not accept donations from businesses which rely on its certification (these could be misinterpreted as bribes) although companies like B&Q pay membership fees, and the actual certifications are paid for by commercial organisations. Alan Knight was involved very closely with the development of the FSC and served as a director from August 1992 to September 1993.

It is very expensive to certify a forest, and at present B&Q and their suppliers are paying for forests to be certified. However, it is hoped that as demand for FSC-certified timber grows, the forest owners themselves will make the necessary investment.

The FSC will not certify any timber which has been produced through the destruction of a forest (even when this is done legally, to create agricultural land). All new FSC-certified plantations must be designed to protect biodiversity, and in existing plantations, past damage must be repaired as trees are replanted.

Now that the FSC is well established and FSC-certified timber is available, B&Q has announced that by the beginning of 2000, it will sell only timber products that carry the FSC logo. A large group of major British retailers has followed B&Q's lead, forming the "WWF 1995 Plus" group—these companies together sell 30 per cent of all paper and timber products bought in the UK.

Progress in achieving FSC certification

Several product ranges have already been independently certified, at surprisingly low cost. These include:

- exterior doors from Malaysia (at a cost of 25p per £50 door)
- charcoal from South Africa
- interior doors from Poland.

These products were all pointed out during the subsequent tour of the store. Certification is also proceeding in Thailand and Vietnam, where B&Q is helping its suppliers to raise their standards of forest management.

It was pointed out that large areas of the world, including Brazil and Borneo, still have no certified forests, but new projects are being set up all the time. By next year there should be 20 countries with certified forests. Alan Knight assured the Committee that there are plenty of well-managed forests in the world: the main problem is with importers like China which have little interest in the environment and continue to provide a large market for badly produced timber.

One interesting development has been the sale of locally produced British charcoal from woods in the vicinity of the stores. This has proved very popular with customers who are willing to pay a premium for what is perceived to be an "environmentally friendly" product. In fact, "green consumerism" is not entirely rational, with some product ranges—like garden furniture—being very "environmentally sensitive" while other timber products like wallpaper sell more on the basis of price. People tend to forget that large quantities of wood go into items like paper and kitchen units. Within two years, B&Q hopes to see FSC labels on paper products.

B&Q continues to visit the forests to ensure that standards are maintained. Other FSC members visit more frequently, and most forests will be checked at least annually.

Ecolabelling discussion

The FSC logo does not guarantee quality or durability, neither does it take in factors such as health and safety during production. As such, it is an example of a "single issue" ecolabel. This was not a problem for B&Q as they were already competent to specify products of appropriate quality. However, it raises the issue of ecolabelling and its value.

Alan Knight felt that the EU ecolabel would fail to win consumer confidence because, while claiming to look at the full environmental impact of the product, it omits animal welfare and ethical issues from the ecolabelling criteria. B&Q's approach has been a twin-track one: they have improved the overall company image through a purchasing policy which takes in both sustainable forestry and ethical considerations, and at the same time provided a small yet

growing range of FSC-labelled products about which customers can be “100 per cent certain”. There are no “green” marketing claims displayed around the store—these can be counter-productive, and in any case the primary aim of B&Q’s policy has been to avert adverse publicity from the pressure groups, rather than use green claims to increase sales.

The advantage of the FSC logo is that it is supported by WWF and other NGOs: it is different from all other ecolabels and therefore trusted by consumers. After some deliberation, B&Q decided not to use any other labels except the EC ecolabel, as additional labels—even the “fair trade” label—could engender further customer confusion and cynicism. Alan Knight’s view is that single issue ecolabelling is the way ahead: life cycle analysis is a “non-science” whereas the criteria for sustainable forestry are much clearer.

Opposition to the FSC

B&Q ran into some difficulties in Malaysia where the government owns many forests and plantations and is resistant to the idea of FSC certification. The Malaysians rely on the International Timber Trade Organisation guidelines—but ITTO is concerned with government policy rather than the management of individual forests, so does not give sufficient assurance that a piece of timber has been sustainably produced. The Forest Stewardship Council had decided not to involve governments in its work, a decision which Alan Knight felt might now be proving counterproductive.

Further opposition to the FSC came from the Timber Trade Federation, although it was pointed out that many timber producers are not members and in any case, the Federation has a very small mandate.

Tour of the Store

Alan Knight and Lorian Coutts then took the Committee on a guided tour of the store, pointing out some of the products that had been referred to in the presentation. As well as the timber products already mentioned, the Committee looked at:

- wooden curtain poles. The supplier initially refused to provide the requested information, but complied when threatened with losing the sales.
- rugs: these are not made by children but the manufacturing process can be highly polluting.
- Russian plywood gripper rods. The supplier cannot trace the source and so is investigating a plastic substitute.
- capiz lampshades from the Philippines. The seafloor is cleared to gather the shells, damaging the marine environment, and there are poor labour conditions in the factory. A B&Q consultant is currently on site helping the company to improve.
- British timber. Although sustainably produced, most of this timber will not carry the FSC logo as the Forestry Commission is said not to be interested in certification.
- hemlock from Vancouver Island. The controversial clear felling of old growth temperate forest almost led to a boycott of this wood, but now the Canadians are working to achieve certification. This change was probably catalysed by Scott Paper’s decision to pull out of Vancouver.
- garden furniture from Vietnam. A consultant is working with Vietnamese foresters and this is the first project where environmental and quality issues are being looked at together.
- Barbeques from Taiwan.

Alan Knight described how B&Q has gained advantages in some circumstances by cutting out importing agents and other middle men who added no value to the product. B&Q now has greater access to the entire supply chain. In some cases, though, such as with rug importation, the agents and importers were found to provide a useful service and are becoming an important link in the supply chain. However, access to their suppliers is insisted upon.

United Kingdom Ecolabelling Board

At the headquarters of the United Kingdom Ecolabelling Board (UKEB) the Committee met Dr Elizabeth Nelson, Chairman, Mr Derek Norman and Ms Anne Daltrop, Members, Mr Jerry Rendell, Chief Executive and Mr Mike Jones, Head of Policy and Administration.

Dr Nelson welcomed the Committee and reviewed progress on the EU Ecolabel. This has been much slower than was hoped for but thirteen licences have now been awarded and the recent report of the National Consumer Council on green consumerism has been in some respects very encouraging. One issue to which that report has drawn attention is the need to avoid the confusion which arises from a multiplicity of labels. The EU label is well placed to do this provided it succeeds in simplifying the procedures for award of the label.

Mr Norman believes that the EU scheme has now “turned the corner” following a period when there were severe bureaucratic problems.

The following issues arose in discussion:

Ethical issues

Issues such as labour conditions are not among the criteria for award of an ecolabel; while B&Q have suggested that this devalues ecolabels in the eyes of the discriminating consumer, the Board is of the opinion that there is growing public awareness and acceptance that environmental and human rights issues are separate. To include ethical considerations among the criteria would complicate the award process still further.

Multiplicity of labels

There are too many labelling schemes at present; a single, authoritative label might be better and once the EU label achieves credibility other labels can be expected to disappear. Unsubstantiated green claims on products could be dealt with at UK level by amending the Fair Trading Act and introducing a statutory code of practice.

Consumer behaviour

Some Members of the Committee expressed the view that consumers will base their purchasing decisions primarily on price. They may choose to visit a particular outlet (such as B&Q) because of its perceived green credentials but once in store they tend to discriminate between products on price rather than on environmental impact. The Board feel that consumer behaviour is less mercenary than that and pointed to the success of the Co-op Bank's recent advertising campaign and to the achievements of the ‘kite mark’. In any case, there is no evidence that application for and award of an ecolabel makes products more expensive at the point of sale.

The Board emphasised the importance of public education in raising awareness and understanding of ecolabelling, and expressed disappointment at the small budget of £200,000 assigned to them for this purpose.

Slow progress on the EU scheme

This situation is expected to improve shortly. Some products bearing the label are now in the shops [some Hoover washing machines and Fort Sterling toilet and kitchen paper]. The ongoing review of the EU scheme is not a delaying tactic and is expected to lead to a speeding up of procedures. All EU member states now have national competent bodies, with the exceptions of Belgium and Italy, and the Commission itself has now taken on responsibility for some of the product groups to speed up proceedings. No decision has yet been taken on whether services, as distinct from goods, should be included in the EU scheme, although Greece is undertaking some preparatory work on criteria for tourism services. In the Board's view, a move to include services would not be appropriate at this stage.

Life cycle analysis

The award of the EU ecolabel to a product is based on life cycle analysis (LCA), but the analysis is weighted towards what is perceived to be its *main* environmental impacts. There is thus a two-stage process: in the first stage, characterised as “scientific”, the environmental impact of a product is assessed for each stage of its “life”; in the second stage, characterised

as “judgmental”, appropriate weighting criteria are applied. The analysis for washing machines, for example, is weighted towards their water and energy consumption in use, rather than towards the manufacturing or disposal stages. LCA thus amounts to more than “a collection of prejudices” but pretends to do no more than identify the best performing products according to the agreed criteria for a given category.

Progress is being made by the ISO and the Society for Toxicology and Environmental Chemistry (STEC) on developing improved LCA methodologies. Some criteria, such as durability of a product, may be too complex to build in to the methodology. The intention behind the EU scheme is for the criteria to be set at a level which typically will result in between 5 and 30 percent of any given product on the market being eligible for award of a label. Over time, the criteria will be amended in order to maintain this proportion at such a level.

World trade implications

Some strong US industrial interests are unsympathetic to ecolabels which, like the EU label, are awarded only to products which meet specified criteria. The preferred approach in the US is to require full environmental information to be displayed on products or on their packaging (ie Type III ecolabelling). There has been some suggestion that the EU label and others like it might constitute barriers to free trade; this is likely to be discussed at the Singapore WTO conference later in the year. The view in Europe is that there are no grounds for supposing that the EU scheme discriminates against producers or exporters outside the EU. Although concern has been expressed that the costs of applying for an ecolabel could deter Third World producers, the Board explained that applicants are charged only 0.15 per cent of total European sales of the ecolabelled product.

In Europe, the US approach is seen as likely to lead to ‘information overload’ among consumers; this fundamental difference of view remains unresolved. Developing countries are also concerned and have been seeking to protect their interests in consultations with the Commission. Other countries are also concerned: for example, the Canadians feel that the criteria for award of an ecolabel to paper products discriminate against their paper, which has a high virgin fibre content. If these disputes are to be settled through the WTO, it would be preferable for Article XX of the GATT to be amended to include environmental considerations; an alternative approach would be adoption of a code of conduct.

ANNEX III

Tuesday 26 March 1996

VISIT TO THE CITES TEAM AND QUARANTINE STATION, HEATHROW AIRPORT

Members of the Environment Committee visited Heathrow Airport to meet members of the CITES team and view the City of London Quarantine Station. The party consisted of:

Andrew F Bennett (Chairman)
Neil Gerrard
Bill Olnér
Matthew Taylor
Roy Thomason

Elizabeth Payne (Assistant Clerk)
Caroline Hand (Specialist Assistant)

On arrival at the British Airways World Cargo Centre, the party was met by Russell Ison (Customs & Excise Corporate Services Division); Tom Donnelly (Assistant Collector responsible for CITES enforcement team) and Charles MacKay (Senior Officer, CITES enforcement team). Mr MacKay then gave a presentation on the work of the CITES team, which was followed by a short discussion.

Presentation on the work of the CITES team

Details of the CITES agreement and its enforcement can be found in the memorandum supplied by Customs and Excise.⁵⁸⁶ The CITES team was set up in 1992 and currently has seven members, each of whom specialises in particular categories of animal or plant, drawing up profiles which include information on the likely countries of origin and details of the importing companies. They work closely with the anti-smuggling teams who, when they discover suspect consignments of animal or plant products, pass them on to the CITES team for identification and impoundment.

Inspection procedure

Shipments of live animals are notified to the CITES team by the entry teams on arrival at Heathrow, and airlines and importing agents generally prenotify the CITES team when a consignment is expected. Live shipments are then removed to the quarantine station for checking.

First of all, the CITES officers examine the importer's documentation, checking to see whether it corresponds with the actual shipment. Shipments containing CITES listed animals must be accompanied by a valid export permit (from the country of origin) and a Department of the Environment import licence. Because of this, the team has close links with the DoE and telephones them several times a day to check the authenticity of licences (a new "UNICORN" computer system giving details of licences will soon cut down the number of calls which have to be made). There is a number of ways in which a shipment can infringe the CITES regulations — for example, the shipment can contain more animals than the licence allows for, or illegally imported rare species may be mixed in with a legitimate shipment.

Seizure of illegal shipments

If a shipment of live animals is found to be illegal, it will be seized and kept at the quarantine station until a home can be found for them. Animals are normally sent to zoos or wildlife parks in the UK which have a breeding programme—it is very rare for animals to be repatriated, as they would be returned to the wild in a stressed state and possibly infected with disease. Some shipments are too large for zoos to accept: for example, a consignment of 677 tortoises from Belfast was given to a tortoise society which distributed pairs of tortoises

⁵⁸⁶HM Customs and Excise (Ev not printed)

among its members. Plants are sent to the botanical gardens at Kew.

Enforcement throughout the UK

Since its formation, the Heathrow CITES team has become a centre of expertise and now advises Customs officers from around the country. Each Customs collection area has its own CITES Liaison Intelligence Officer (CLIO): these officers are non-specialists but come to Heathrow for training and will eventually have access to the "Concept Imaging" computer software to assist them in identifying CITES species (see below). When illegal shipments of endangered species are discovered at other British ports or airports, they are usually flown directly to the Heathrow quarantine station.

Ignorance of the law

The detection rate for illegal shipments is very high. In 1992 about 75 per cent of live shipments failed to comply with the CITES requirements but this figure has now dropped to under 30 per cent. Most cases of illegal importation result from a mere ignorance of the law. This is particularly the case with tourists who bring back holiday souvenirs made from parts of endangered species: while most people know of the ban on trade in ivory, there is less awareness that items like coral, turtle shells and plants are also protected under CITES. In these cases, the Customs officers do not prosecute but confiscate the item and explain the law to those involved. By visiting county shows and other public events with their display, the CITES team hope to raise public awareness and discourage the purchase of this kind of souvenir.

Prosecution of smugglers

In cases where the law is being deliberately flouted by smugglers, Customs will normally seek to prosecute. One recent example involved the smuggling of cockatoo eggs from Australia. An Englishman was discovered in Australia with 29 eggs hidden on his person, and the smuggling operation was then traced back to South Wales where five houses were raided and 19 birds removed. Three of those arrested were subsequently imprisoned. The CITES team have been reasonably satisfied with the penalties being imposed by the courts in recent times.

Since 1992 the team has seized 9697 reptiles, 2588 birds, 6300 plants and 7892 animal derivatives. The numbers of live animals seized each year have been progressively declining as awareness of the regulations has grown and unscrupulous dealers—who have consistently failed to provide the correct documentation—have been driven out of business. Very few birds are now imported by air.

Packaging of animals

Attention has recently been drawn to the way that animals are packed during the flight: the import permit requires them to be packed in accordance with IATA regulations but these are sometimes ignored by exporters. For example, the team recently seized a shipment of tortoises from the US, which were packed so tightly that some were lying on their sides and backs — many, of course, had died. The smaller the boxes, the lower the airfreight costs are.

Liaison with other organisations

The CITES officers liaise with officers in the European Union (who pass on intelligence) and with the CITES secretariat in Geneva. They also work with the police officers responsible for enforcing controls over sales offences, such as the sale of Chinese medicines containing tiger parts.

Problems with the CITES regime

In general, the CITES team consider that the CITES regime is fair and effective, although they have reservations about applying the controls to propagating plants (which importers often protest have come from nurseries rather than the wild) and pet birds. Because it is difficult to distinguish between a plant that has come from the wild and an identical specimen from a nursery, the same controls apply to both.

Display

Following the presentation, the Committee was able to view a display of confiscated products made from endangered species. These included a tiger skin; bags made from crocodiles;

snakeskin cowboy boots; a rhino horn; a selection of corals; a polished turtle shell; an ivory carving; a display case containing butterflies from Thailand; and a small overnight bag in which a passenger had concealed two tortoises (she later gave herself away by requesting lettuce and water from the air stewardesses).

Demonstration of Concept Imaging system

Mr MacKay proceeded to describe and demonstrate a new interactive computer database which will enable any Customs officer to identify CITES species. This is being developed especially for the CITES team by Concept Imaging and once completed will be made available through a network to CITES Liaison Intelligence Officers in Dover, East Anglia, South Wales, Manchester and Hull.

The system is based around good quality colour photographs of all the species listed by CITES. An officer confronted with, say, a green parrot can "search" first of all by selecting "parrots". With the aid of an annotated diagram and various prompts, the officer can then enter details of colour, shape, name etc to narrow down the search to a few possible species. The photographs of these species can then be called up, and individual pictures enlarged to check for detail.

All the photographs have been provided free of charge by zoos, wildlife parks and amateur wildlife photographers.

Visit to City of London Quarantine Station

The Committee's visit concluded with a tour of the Quarantine Station, escorted by Rob Quest (Manager, Animal Quarantine Station), John Baker (Committee Member) and Bryn Aldridge (trading standards officer); and by Charles Mackay and Guy Clarke of the CITES team. The station opened in 1977 following the introduction of the Rabies Order, and since the advent of CITES its responsibilities include the identification and care of impounded CITES animals.

One section of the station is used for keeping impounded animals which do not have to be quarantined (mainly reptiles) while the main "quarantine" area contains both illegally imported animals and those brought in quite legally — such as pet dogs — which are kept at the station before being transferred to a quarantine kennel.

During the tour of the station, the Committee was able to observe (and in one case handle) some of the endangered species. Two consignments of iguanas had recently been seized and there were also several baby boa constrictors which did not meet the minimum size requirement for export. Among the other animals at the station were a large tarantula and some small tortoises.

Guy Clarke described some recent incidences of animal smuggling. Parrots are often smuggled into the country by sailors from Eastern Europe, for whom the price of a parrot is equivalent to six or seven months' wages. The Committee saw two Amazon parrots which had been concealed on a ship in Ellesmere Port. In the next cage were two African Greys from Zaire, which had been seized because the importers did not have the proper paperwork. Since these parrots had lost their tail feathers, they had almost certainly been caught in the wild (trappers coat branches with glue to catch the birds).

There is a substantial legitimate trade in animals: reptiles, including the venomous ones, are increasing in popularity as pets, particularly since the demise of the trade in wild birds. The quarantine officers were quite relieved that most scorpions are not CITES species, as a shipment of 3500 had recently passed through the station! Because rare animals fetch higher prices, smuggling can be highly profitable. One of the iguanas viewed by the Committee would fetch £300, and some cockatoos can sell for £10,000 a piece. Australia's strict trade policy means that the illegal trade in birds, both into and out of Australia, is very lucrative (an African Grey parrot would sell for £3000). Members expressed concern that there is so little control over the pet shops which purchase these exotic animals and birds.

Illegally imported animals sometimes arrive in a stressed and unhealthy state, usually because they have not been packed correctly. One of the station staff's most demanding tasks was to care for 400 pythons, all of which had to be injected, fed through a stomach tube and have their mouths bathed each day. Of these, 85-90 per cent survived, but other species are more vulnerable (like chameleons, which have to be sprayed with water).

It was the view of the station staff that the CITES controls have been effective. Importers have learned not to order species of animals that they know cannot be legally traded; the quality of consignments has improved considerably (in terms of animal health and packing); and the threat of seizure has proved an effective incentive to provide the correct paperwork.

ANNEX IV

TRADE AND THE ENVIRONMENT:
CHALLENGES FOR 1996

Notes made at a conference sponsored by the Global Environment & Trade Study and New York University Law School, held in New York on 19 January 1996

Attended by:

Mr Andrew F Bennett (Chairman)

Mrs Caroline Hand (Specialist Assistant)

SESSION 1: ON THE ROAD TO THE WTO SINGAPORE CONFERENCE

Speakers for this session were:

Konrad von Moltke, an academic who works for WWF

Hector Torres, Argentine Counselor to the WTO

Abraham Katz, US Council for International Business

Gregory Mertz, US Environmental Protection Agency

Konrad von Moltke

Mr Von Moltke sought to place the WTO and its Committee on Trade and the Environment (CTE) within the wider perspective of the global environmental agenda. He was concerned that the WTO CTE might become preoccupied with technical matters, overlooking important elements of the trade/environment debate such as agriculture. The significance of the WTO's *institutional structure* should be recognised: the Singapore conference will be the first step in changing the WTO from a "post-GATT institution" to a "preeminent international trade association". (Note: The GATT agreement — which contains the rules of international trade—still exists. The WTO is a new organisation which has power to enforce the GATT rules and resolve trade disputes.)

Mr Von Moltke also highlighted the "demise of nation states" as multinational corporations gain increasing control over world trade. The WTO will have to organise itself so as to take account of this, rather than working on the assumption that trade is predominantly between nation states.

Hector Torres: WTO CTE Agenda

Mr Torres gave a very useful summary of the issues which the WTO CTE will discuss in preparation for the Singapore Conference in December 1996. Full notes of this session were distributed. In summary, the CTE is currently considering:

1. Environmental charges and taxes

The CTE meeting on 28-29 February 1996 will discuss "environmental taxes which could be adjusted at the border and their WTO-consistency". This covers issues such as Border Tax Adjustment and the viability of environmental taxes based on Processes and Production Methods.

2. Ecolabelling

Many countries have expressed concern about the potentially trade-distorting effects of ecolabelling. Ecolabels fall within a "grey area of the international trading system", coming "partially outside the regulatory framework" of the WTO Agreement on Technical Barriers to Trade (TBT). This will be discussed on 27 February when the CTE meets with the TBT Committee. Countries will be invited to present their national ecolabelling schemes at this meeting.

3. Multilateral Environmental Agreements (MEAs)

On 26 February, the CTE will consider the three possible ways in which trade restrictions in MEAs could be made compatible with the GATT rules, ie either

- an “understanding”;
- case-by-case waivers; or
- amendment of GATT article XX

(For an explanation of these, see the memorandum from the DoE.)⁵⁸⁷

4. *Dispute settlement mechanisms*

Also on 26 February, the CTE will tackle the issue of how to settle trade disputes which might arise out of the implementation of MEAs. It will consider the need for environmental expertise in trade dispute settlement, and conversely the need for trade expertise in environmental dispute settlement.

5. *Trade restrictions and distortions*

The CTE will meet in March to consider:

- (a) the effect of environmental measures on market access: looking at border tax adjustment, ecolabelling, requirements concerning packaging and recycling, etc
- (b) the environmental *benefits* which could be achieved by *removing* trade restrictions and distortions. “Many delegations agreed that if we do intend to deal with the relationship between trade and the environment, the first step should be to identify and agree on a framework to eliminate those subsidies that have negative environmental externalities in the commodity production process.”

6. *Export of domestically prohibited goods (DPGs)*

DPGs are goods such as DDT and other agrochemicals which are prohibited in (eg) the UK but still exported to third world countries, where they may present a serious hazard to health.

In 1991, a draft decision was drawn up requiring that exporters

- (a) notify importing countries of the fact that the product is banned in the country of origin
- (b) “consider” restricting the exports of such products.

This decision was not adopted because of the opposition of one country (everyone at the conference seemed to know who this was, suggesting it might have been the USA). “Some delegations seemed to be very reluctant to accept the idea of encouraging a WTO Member to apply trade restrictions under its domestic environmental law in order to tackle environmental problems arising within the jurisdiction of another Member”.

A new African proposal would require notification only. Any new DPG decision would have to fit in with existing international prenotification agreements such as the Basel convention so as to cover:

- (a) types of products which are not covered by existing agreements
- (b) countries which have not signed up to existing agreements.

7. *TRIPs (the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights)*

CTE discussions on 25-27 March will focus on the relationship between the TRIPs Agreement, which establishes rules for trade in intellectual property such as patents, and the UN Biodiversity Convention which seeks to conserve species. (There are fears that TRIPs might allow the exploitation of natural resources for genetic engineering, etc, in a way that contravenes the Biodiversity Convention.)

Abraham Katz: Industry’s View of the WTO Agenda

Mr Katz presented industry’s view of the trade/environment debate. Industry is wary of the use of trade sanctions as a means of forcing through higher standards, whether these relate to the environment or to labour conditions.

Like Mr von Moltke, Mr Katz emphasised that all business is now *global*: even small companies collaborate with other small companies overseas. The primary role of the WTO is to provide a framework of rules within which businesses can operate.

Mr Katz then moved on to look at four specific issues: MEAs; unilateral application of trade restrictions; ecolabelling; and border tax adjustment.

1. MEAs

Mr Katz supports the “*ex ante*” approach to making the GATT rules compatible with MEAs. In other words, he would like to see GATT Article XX amended to make it clear to everyone that trade measures in MEAs are exempt from the GATT provisions, including the “most favoured nation” requirement.

However, if this is to be acceptable to industry, MEAs must meet the following conditions:

- they should be open to all governments
- non-parties to MEAs must be treated in the same way as parties (eg if the UK was exporting waste to a country that had not signed the Basel convention, the importer would have to be notified in the same way as a Basel signatory would be)
- discriminatory policies should only be used where essential
- the MEA must represent most of the countries involved with the trade in question.

Once it was established that an MEA met these criteria, no trade sanctions other than those of the MEA would be allowed. Mr Katz felt that it was important to get these rules concerning MEAs in place soon; the number of MEAs is likely to increase as more of the world’s environmental problems are seen to warrant trade restrictions.

2. Unilateral action

The US Trade Council, representing US industry, considers that there is only one circumstance where individual countries are justified in taking unilateral trade-restrictive action. This is where there is an urgent threat to an endangered species — by the time an MEA has been negotiated, the species could have disappeared! This proposal has not been accepted by the Business and Industry Advisory Committee to the OECD (BIAC).

3. Ecolabelling

Mr Katz saw ecolabelling as “a major trade-distorting problem” and quoted an acquaintance who had described the Danish ecolabel as “our little green label by which we keep out Greek and Portuguese goods”. The US Council for International Business (USCIB) will only support ecolabelling schemes if they meet the following criteria:

- labels to be based on sound science
- schemes to be voluntary, open and non-discriminatory
- anyone can participate
- schemes to encourage technological and environmental innovation.

He was not keen on ISO 14000 (the international standard for environmental management systems) and also opposed the use of trade restrictions based on Processes and Production Methods, which industry views as trade-distorting.

4. Border tax adjustment

Border tax adjustment is a way of making environmental taxes, eg carbon tax, more palatable to industry (see written evidence from the WWF⁵⁸⁸).

The USCIB does not like the idea of border tax adjustment, which they see as discriminating against exports from countries which do not have a national environmental tax. Mr Katz also considered that border tax adjustment could undermine the objectives of an environmental tax (for example, if a government were to give manufacturers a carbon tax refund on their exported products, the manufacturers would have less incentive to save energy).

Not surprisingly, the USCIB also opposes the notion of carbon/energy taxes, which are viewed as trade-distorting.

Gregory Mertz: Environmental Agency Viewpoint

Mr Mertz saw trade and environment as “mutually reinforcing”. While environmental policy

tools should be *flexible*, international trade rules should guarantee *certainty*. The principle of carrying out environmental reviews of trade agreements—as happens with NAFTA—is worthy of wider application.

Mr Mertz focused on two aspects of the WTO CTE's agenda:

MEAs: He felt that the WTO was not an entirely appropriate body to make judgements on trade measures taken for environmental reasons.

Ecolabelling: This got the thumbs-up as a flexible way of developing trade measures based on Processes and Production Methods.

Comments and Questions

There was some debate as to whether anything would actually happen in Singapore: the Session Moderator, Michael Smith of SJS (consultants) thought nothing would be agreed, but others were more optimistic. A major deciding factor will be the outcome of the next US Elections: without Bill Clinton at the helm, the WTO meeting may not achieve very much.

Mr Smith remarked that “environment” is not the main item on the WTO agenda for Singapore — the WTO is giving higher priority to “trade and labour rights”.

James Cameron asked the panel which option they would choose in order to make GATT Article XX compatible with MEAs. Most of them favoured the “amendment” option, which creates a higher degree of certainty and leaves less to the WTO's discretion. However, Mr Torres (who actually participates in the WTO CTE) felt that the WTO might not even get round to discussing MEAs at the Singapore meeting.

The session ended with a brief discussion of unilateral trade measures. Mr Mertz's viewpoint was that unilateral action might be necessary to support the goals of those MEAs which do not have trade measures explicitly written into the agreement.

SESSION 2: REGIONAL TRADE AGREEMENTS AND THE ENVIRONMENT

This session looked at three regional trade agreements:

- the North American Free Trade Agreement (NAFTA) between Canada, the USA and Mexico
- the Mercosur agreement between Brazil, Argentina, Paraguay and Uruguay
- the APEC agreement between a large number of countries bordering the Pacific.

Each of these is different in character, incorporating environmental considerations to a varying degree. The European Community served as the original model for these regional agreements, and is the most highly developed, being a political union as well as a free trade area.

The speakers for this session were:

Pierre Marc Johnson, McGill University and National Round Table on Environment and Economy

Pedro Tarak, *Fundacion Ambiente y Recursos Naturales* (Foundation for the Environment and Natural Resources), Argentina

Takao Shibata, Mission of Japan to the UN

Laura Campbell, UN Environment Programme (UNEP)

Jonathan Plaut, Allied Signal (industry representative)

Frederick Abbott, Chicago-Kent School of Law.

Each speaker was asked to address two questions:

- 1) If the WTO process is slow, can regional agreements lead the way by establishing rules that work and providing mechanisms or models for the working out of WTO processes?
- 2) Are there problems which are best dealt with on a regional basis?

Pierre Marc Johnson: NAFTA

The main NAFTA agreement makes some provisions for environmental protection. Firstly, MEAs take precedence over NAFTA trade rules. Secondly, NAFTA (in chapters 7-9) allows signatories to take more action to protect the environment than does GATT, but does not provide any sanctions (for use when a signatory fails to keep its environmental promises).

Bill Clinton accepted NAFTA on condition that an environmental side agreement, NAAEC, would also be set up. NAAEC was negotiated by trade, not environmental, negotiators and has no organic link with the main trade agreement: so, for example, it does not provide a forum for the resolution of disputes under Articles 7-9. NAAEC does, however, provide sanctions: if one country fails to enforce its own environmental law, the other governments have the option of taking out trade sanctions (if negotiations fail). Non-governmental organisations (NGOs) such as environmental pressure groups can register a complaint that a country is not enforcing its own law, but although the complaint will be reported, it will not lead to sanctions.

Mr Johnson described the structure of NAFTA, which has a Commission (including a Council of Ministers from the three countries), an advisory committee and a powerful Secretariat. NAFTA is much more open and transparent than the WTO: its documentation is made accessible, and it even has an Internet site. In this it could serve as a model for the WTO.

Pedro Tarak: MERCOSUR

The Mercosur Agreement was set up by the Asuncion Treaty and its eventual aim is economic union through a common market. This trade regime is seen as just one way in which progress can be made towards the overarching goal of sustainable development. Mercosur has three decision making bodies: Council, Commission and Trade Committee, and as with the EC its "norms" are integrated into the domestic law of the member countries. Unlike NAFTA, Mercosur does not have an environmental side treaty but there are many "norms" which have a bearing on the environment, relating to issues such as pesticide residues in food and the transport of dangerous goods.

Mercosur has no explicit environmental policy but some broad guidelines have been laid down. Looking to the future, there may be some harmonisation of environmental laws, especially where shared ecosystems are involved. Mr Tarak would like to see the establishment of an environmental side agreement similar to NAAEC, and the development of common environmental regimes, which would be applicable to international infrastructure projects such as the Hidrovia canal.

Takao Shubata: APEC

The APEC Agreement is a remarkable development, involving 18 countries as diverse as Canada, Australia, Brunei, China and Papua New Guinea. It was established in 1989 as an effort to emulate the EC and OECD in the Pacific region.

APEC's objectives are:

- free and open trade before 2010 for industrialised countries, and before 2020 for developing economies
- expansion and acceleration of the "trade investment facilitation programme"
- intensification of economic and technical co-operation.

APEC has not yet attained the status of a customs union (like the EU) or free trade area (like NAFTA). However, it is establishing a framework which could have the effect of discriminating against outsiders. It is intended that APEC be consistent with WTO/GATT rules.

There is no explicit environmental policy but rather “loose consultative mechanisms”, with working groups to discuss issues such as energy and tourism. The long term aim is for closer integration but because of the diversity of the countries involved, this must be achieved very gradually.

Laura Campbell: Overview of Regional Agreements

GATT does not really address environmental concerns, unlike the the regional agreements whose scope extends beyond “trade”. Seeing that most ecosystems are regional, it is appropriate that environmental concerns should be addressed within the framework of a regional agreement. NGOs can also exert more influence on the regional scale.

Ms Campbell went on to speculate about the future role of the private sector on environmental standards. For example, as interest in ethical investment grows, companies with overseas mining interests will have to ensure that their operations meet the environmental standards expected by the shareholders.

Jonathan Plaut: “an environmental advocate within industry”

Mr Plaut was an enthusiastic advocate of the “trade is good for the environment” position. For example, the NAFTA side agreement is already leading to the dissemination of environmental technology. He considered that there is “no going back” in the move towards a global economy, the only alternative being a Malthusian collapse as population outgrows the available resources.

Fred Abbott: Lawyer’s Overview

Mr Abbott gave a helpful explanation of the difference between a customs union (eg the EU), free trade area (eg NAFTA) and regional agreement (eg APEC). A customs union has a common outer tariff wall, whereas in a free trade area members can apply their own individual tariffs when dealing with “outside” countries.

Both a customs union and a free trade area facilitate trade within the region, and thus both *create* trade within the region and *divert* trade from outside (for example the EC facilitated trade within Europe, but may have diverted UK trade away from the Commonwealth countries). Economic growth occurs where the trade created outweighs the trade diverted.

Unfortunately, the losers tend to be the developing countries — so, for example, the EC established high technical standards for products which acted as barriers to trade with the Third World. Mr Abbott’s solution to this is to establish multilateral rules on a much larger geographical scale, as is happening within APEC.

Mr Abbott went on to evaluate the environmental impact of the various regional agreements. The EU, with its explicit environmental policy, achieves far more for the environment than does the WTO. Likewise, he saw NAFTA as having a positive effect on the Mexican environment.

The presentation ended by noting how the concept of “sustainable development” has gained widespread acceptance. Mr Abbott’s somewhat disturbing conclusion was that a loss of sovereignty is the necessary price to pay for sustainable development.

SESSION 3: NEW DEVELOPMENTS IN THE BASEL CONVENTION

This was a very useful session which looked in detail at a Multilateral Environmental Agreement —the Basel Convention, which regulates the international trade in waste.

The effect of the **main (or parent) Basel Convention**, which came into force in 1992, is to ensure that *all* shipments of waste are notified to the importing country, giving importing countries the chance to refuse shipments of hazardous waste. Exporters must not ship hazardous waste to countries which do not have the facilities to deal with it in an

environmentally sound manner. Basel signatories must not engage in any waste trade with countries which are not parties to the Convention: the most prominent non-signatory is the US, although in practice trade does go on.

Since 1992, an **Amendment (Decision III/1)** to the Convention has been drawn up and ratified by some, but not all, of the parties to the original convention. This *bans* the export of hazardous waste for *disposal* to non-OECD countries and requires signatories to phase out, by the beginning of 1998, the export of hazardous waste for *recovery* in non-OECD countries.

While both the original Convention and the ban on exports of hazardous waste for *disposal* in non-OECD countries have been largely accepted by industry, there is still considerable controversy surrounding the proposed ban on exports of hazardous waste for *recovery*.

Speakers for this session were:

Iwona Rummel-Bulska, Basel Secretariat

Kevin Stairs, Greenpeace International

John C Bullock, Handy & Harmon (Environmental Counsel to a reclamation company)

David Wirth, Professor of Law at Washington and Lee University and Director of the Trade, Health and Environment Program, Community Nutrition Institute

An excellent background paper was provided by David Wirth.⁵⁸⁹ This is well worth reading in full, as it gives a clear description of the provisions of the Convention, goes on to analyse how the Convention fits in with the WTO rules then identifies potential conflicts. John Bullock also produced a readable paper which puts forward the recycling industry's viewpoint.

The speakers were asked to bear in mind the following questions (which are relevant for the Committee's Inquiry):

- under what circumstances should trade in a certain material be *banned*, rather than just regulated?
- what are the legal implications (eg with regard to the WTO rules) of the ban on exports of hazardous waste for disposal?
- will the amendment be ratified by enough states to give it legal effect?
- how does the amendment fit in with the broader legal context (and in particular, with GATT/WTO rules), and what are the implications for those who do not participate in the Basel Convention?
- what implications does the amendment have for other MEAs which are about to be negotiated?

Iwona Rummel-Bulska: Basel Secretariat

Ms Rummel-Bulska summarised the history, aims and provisions of the Convention and amendment. (This information can be found in the paper by David Wirth.)

She emphasised that the main area of controversy is the ban on exports of hazardous waste to developing countries for recovery. In order for the amendment to come into effect, two thirds of the Basel signatories must ratify it, and this has not yet happened. They are waiting for the outcome of the technical working group on the definition of "hazardous waste".

Kevin Stairs: Greenpeace

Mr Stairs summarised the environmentalists' viewpoint, emphasising the risks to health and the environment that result from irresponsible trading in hazardous waste. (Some examples are given on pages 2-4 of David Wirth's paper.) Greenpeace played an important role in the

⁵⁸⁹David Wirth, "International Trade in Wastes" 1996.

development of the Basel Convention.

According to Mr Stairs, the Basel Convention has just as much legal authority as the WTO but is not backed up by the economic power of major WTO signatories.

Mr Stairs outlined the history of the Convention and other similar agreements.⁵⁹⁰

He explained that the ban on exports of hazardous waste to developing countries was requested by African nations. This initiative was blocked by Japan, Australia, the USA, Canada and Germany because of their economic interests in exporting waste, even though in Mr Stairs' opinion, the volume of trade to non-OECD countries was actually very small (this was later disputed by Mr Bullock).

The G77 group of developing countries largely supported the ban (although some, like India, required persuasion). Their cause was taken up by the EU and Norway, who put forward a proposal for a ban to be incorporated into the Basel Convention before other industrialised nations had time to persuade any of the G77 countries to "break ranks".

The main thrust of Mr Stairs' presentation was that the developing countries do not want our hazardous waste, whether for disposal or recycling, and it is industrial nations who are opposing the ban. This contradicts the view presented by Mr Bullock (see below).

John Bullock: Reclamation Industry

Mr Bullock presented the waste traders' side of the argument, giving views which were diametrically opposed to those of Greenpeace.

He saw the Basel Convention as being "under the complete control of environmentalists". While supportive of the Convention's original purpose, ie to stop the illegal dumping of waste in third world countries, he saw the ban on exports of recyclables as unreasonable.

In his view, developing countries should not be deprived of useful secondary materials. It is their responsibility to enforce health and safety precautions, and they have a right to set their own (lower) standards.

Mr Bullock gave a good example of the difficulties arising from the current broad interpretation of "hazardous waste". He held up a computer circuit board—hardly a dangerous item—and described how under Basel, used circuit boards could no longer be exported for recovery in developing countries. However, his case was weakened when he explained that in order to remove the chips, etc from the board, the recyclers have to melt the lead solder and this gives off dangerous fumes.

David Wirth: Possible Conflicts between Basel and WTO

Mr Wirth looked at the effect of GATT/WTO rules on the Basel amendment. This is covered in his paper. The conclusion was that "there is only a small likelihood in practice that the amendment would give rise to conflicts with GATT/WTO rules to a greater extent than the ban on exports to and imports from non-Basel parties already contained in the Convention". There are several aspects of the main Convention which could lead to problems, however.

Questions followed, during which the following points emerged.

a) There is a possibility that countries could get round the Basel ban by setting up bilateral agreements with developing countries. Article 11 of the Convention seems to allow this, but it is unlikely to happen in practice because the bilateral arrangements have to be just as "environmentally sound" as the Convention—and it is difficult to envisage something more environmentally sound than a complete ban!

⁵⁹⁰See Wirth paper, pages 7-8.

- b) The definition of “hazardous” waste will change as scientific knowledge improves.
- c) The Basel Convention does not address trade between developing countries (south-south trade). What happens to waste from SE Asian industrial economies?
- d) The US opposes the Basel ban, their official reason being that it removes the incentive for third world countries to develop environmentally sound waste treatment methods.

SESSION 4: WORKSHOPS

For the final session, the conference divided into four workshops. The Chairman attended the workshop on ecolabelling, while Caroline Hand attended the workshop on “Sizing up environmental trade barriers”.

Ecolabelling Workshop

The session on ecolabelling was chaired by Mark Ritchie. It was begun by Kristin Dawkins summarising her paper on eco-labelling worldwide. It makes interesting reading, although the bit on the UK doesn't make it clear that the UK doesn't have its own scheme, but rather relies on the EU one. It does suggest that the UK Board is dominated by industrial representatives.

In the general discussion which followed, a variety of criticisms were made of ecolabelling as a restraint to trade. The Chairman disputed this view, but received little support from other members of the group.

Workshop on “Sizing up environmental trade barriers”

This workshop looked at methods of discovering just how much trade is lost as a consequence of environmental standards and regulations.

TED Database

The workshop opened with a presentation by Dr James Lee of the American University, Washington DC. He described a useful database called TED (Trade Environment Database) which contains more than 200 examples of trade and environment cases from around the world. This database can be found on the Internet at

<http://gurukul.ucc.american.edu/ted/ted.htm>

Dr Lee went on to look at the effect on trade of nine specific environmental trade-restrictive measures, most of which were import bans involving the US. Some contained an element of protectionism in disguise: for example, the US banned imports of lobsters below a certain size on the grounds that the catching of young lobsters would lead to the stocks being depleted. This ban excluded adult Canadian lobsters—they do not grow so big in the cold water—and thus benefitted US fishermen. Canada then took the US to GATT.

Having investigated all nine cases, Dr Lee concluded that the value of lost trade—which ranged from \$25 to \$75m—was small in comparison with the value of the resources which the measures sought to protect.

In the future, the understanding of what is “trade” may well broaden to cover services such as tourism, and the export of water and electricity, all of which have environmental impacts.

UNCTAD presentation

The second half of the workshop was taken up with a technical presentation by Roland Mollerus of UNCTAD. He described UNCTAD's efforts to analyse trade statistics in order to find out how much trade is lost through the introduction of environmental trade measures. For example, he compared the quantities of yellowfin tuna traded before and after the US ban on “dolphin unfriendly” tuna imports.

It is particularly difficult to assess the effect on trade of measures such as ecolabelling, “take-back” recycling schemes and environmental management standards, which are “non-tariff barriers”. To add to the problem, aggrieved countries tend to exaggerate the amount of trade they have lost when taking a case to the GATT.

UNCTAD has set up a database called GRADE (GReen trADE). This gives information on the environmental product standards implemented by various countries, and enables users to calculate their effects on trade. UNCTAD’s supporting documentation describes this in detail.

Much of this presentation focused on the practical difficulties which UNCTAD had encountered in this project—particularly the inadequacy of the official trade statistics.

Discussion

Delegates made the point that while the UNCTAD project could try to estimate the value of lost trade, it did not assign any value to the resources conserved through the environmental trade measures. It is very difficult to assign a value to environmental benefits, particularly where “cultural” perceptions come into the equation (for example, attitudes to animal welfare differ between countries). Mr Mollerus explained that the UNCTAD database was set up for the benefit of traders.

Hector Torres (of the WTO) suggested that “trade carrots” could be used to encourage developing countries to produce environmentally friendly products. Industrialised countries could allow third world producers extra market access as a reward for cleaner production. However, this would be difficult to implement in practice: how much extra market access would you give Taiwan if it stopped selling tiger bones?

A US industrialist referred to the beef hormone dispute between the EU and US (the EU banned beef containing hormones, which effectively excluded US beef). In his view, the EU is in the wrong but the US does not want to pursue the dispute for fear of jeopardising their overall trading relationship.

ANNEX V

SURVEY ON SUGGESTED AMENDMENTS TO ARTICLE XX OF GATT

As part of its Inquiry into World Trade and the Environment, the Committee conducted a survey by circulating a suggested form of wording for an amendment to Article XX of GATT. The suggested wording is reproduced below.

Suggested amendments are shown in bold.

GATT Article XX

General Exceptions

Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between countries where the same conditions prevail, or a disguised restriction on international trade, nothing in this Agreement shall be construed to prevent the adoption or enforcement by any contracting party of measures:

- (a) necessary to protect public morals;
- (b) necessary to protect **the environment**, human, animal or plant life or health;
- (c) relating to the importations or exportations of gold or silver;
- (d) necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to customs enforcement, the enforcement of monopolies operated under paragraph 4 of Article II and Article XVII, the protection of patents, trade marks and copyrights, and the prevention of deceptive practices;
- (e) relating to the products of prison labour;
- (f) imposed for the protection of national treasures of artistic, historic or archaeological value;
- (g) relating to the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption;
- (h) undertaken in pursuance of obligations under any intergovernmental commodity agreement which conforms to criteria submitted by the CONTRACTING PARTIES and not disapproved by them or which is itself so submitted and not so disapproved
- (i) involving restrictions on exports of domestic materials necessary to ensure essential quantities of such materials to a domestic processing industry during periods when the domestic price of such materials is held below the world price as part of a governmental stabilization plan; *Provided* that such restrictions shall not operate to increase the exports of or the protection afforded to such domestic industry, and shall not depart from the provisions of this Agreement relating to non-discrimination;
- (j) essential to the acquisition or distribution of products in general or local short supply; *Provided* that any such measures shall be consistent with the principle that all contracting parties are entitled to an equitable share of the international supply of such products, and that any such measures, which are inconsistent with the other provisions of the Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist. The CONTRACTING PARTIES shall review the need for this sub-paragraph not later than 30 June 1960.

(k) taken pursuant to Multilateral Environmental Agreements.

with an explanatory note or Understanding setting out the criteria for qualifying MEAs:

1. That the Agreement is subject to international law.
2. That the Agreement has as its objective the protection of the environment beyond national jurisdictions.
3. That the Agreement is or has been negotiated through the auspices of an intergovernmental organisation concerned with environmental matters.
4. That the effect of the MEA meeting these three criteria above would be to predetermine the necessity of any specific trade measure contained within the MEA or taken pursuant to the MEA.
5. That, nonetheless, the trade measure must satisfy the headnote in Article XX in that it must not be arbitrary, unjustifiable or a disguised restriction on trade.
6. In order to deal with the transparency of trade measures, the Secretariat(s) of any satisfying MEA should communicate any existing or potential trade-related environmental measures to the WTO.

Summary of Responses to the Committee's GATT Survey**Negative responses**

British Fur Trade Association
UNCTAD
RTZ
Steve Charnovitz
Consumers' Association

Five of the witnesses were either opposed to, or wary of, an amendment of GATT Article XX. The most important of these is UNCTAD, which represents the developing countries. Steve Charnovitz (an academic environmental lawyer), although supportive of environmental agreements, did not think that an Amendment to Article XX was politically feasible. The Consumers' Association thought that our proposed amendment did not reflect the complexity of the situation and could damage the multilateral trading system: their solution to the conflict between GATT and MEAS would be a more fundamental review of international environmental law, with the possible establishment of a global environment organisation.

Positive responses

OECD
UNEP
CBI
ICI
British Importers Association
Dan Esty
Duncan Brack (Royal Institute of International Affairs)
Friends of the Earth
RSPCA
Political Animal Lobby
WWF
RSPB

The above respondents supported an amendment to GATT Article XX. Friends of the Earth, the British Importers Association and the OECD supported our proposal in its current form. The other witnesses suggested minor modifications.

Changes to suggested wording of Article XX(b)

Article XX(b) currently permits exemption from GATT for measures necessary to protect human, animal or plant life or health: our proposal adds "the environment" to this list. The CBI did not want to add the words "the environment" as they thought this would create a general presumption that environmental measures always take precedence.

Suggested new subparagraph — Article XX(k)

This part of our proposal would create a specific exemption for measures “taken pursuant to MEAs” and met with widespread support from the witnesses. The RSPCA and Political Animal Lobby suggested that subpara (k) be extended in order to cover animal welfare, as well as purely environmental, agreements.

Proposed Understanding

This sets out suggested criteria by which a WTO panel could decide whether a particular MEA qualifies for exemption from GATT rules.

Several witnesses—Dan Esty, UNEP, Steve Charnovitz and WWF—queried point 2, “that the Agreement has as its objective the protection of the environment *beyond national jurisdictions*”, on the grounds that it would exclude several of the major MEAs, notably CITES and the Biodiversity Convention, which relate to environmental problems at the national level.

The Consumers’ Association, RSPB and WWF queried point 3, which requires the MEA to have been negotiated by an *intergovernmental environmental organisation*. While the Consumers Association was worried that this might include small MEAs with only a few signatories, RSPB was more concerned that it would *exclude* MEAs such as the Ramsar convention (managed through UNESCO) which are managed by organisations whose mandate is not specifically environmental.

WWF was concerned about point 5 of our Understanding, which states that the trade measure in the MEA must not be “arbitrary or unjustifiable”, on the grounds that further interpretation of these terms is needed.

UNEP (which actually manages the MEA secretariats) queried point 6. This would require MEA secretariats to notify the WTO about any *potential* trade-related environmental measures. They felt it would be impossible to identify and notify every potential effect on trade of a new MEA.

Suggested additions to the Understanding

Some of the witnesses suggested additional criteria for inclusion in the Understanding. In summary, these are:

- there should be a sound scientific basis for the MEA (CBI, ICI)
- the MEA must be intended to counter a significant global environmental problem (ICI)
- the trade measures would serve the environmental objectives of the MEA (CBI)
- the trade measures are **essential** to achieve the justified environmental objectives (ICI)
- the MEA must be global, not regional (ICI)
- trade measures should only be considered as a last resort (RTZ)
- the MEA should be open to participation by all parties concerned about the environmental objectives of the agreement (Duncan Brack).

Dispute settlement

The British Importers Association wanted the amended GATT to contain an assurance that non-parties to an MEA would still have recourse to the WTO dispute settlement procedure if they objected to a trade measure in an MEA.

Both Steve Charnovitz and RTZ (neither of whom favour an amendment to GATT) raised the issue of who would arbitrate if the WTO and MEA secretariat disagreed as to whether an MEA met the criteria in the Understanding. Both our proposal and the EC paper presume that the WTO would make the decision.

Comparison between the Committee’s proposal and the European Commission paper

The suggested amendments to subparas (b) and (k) of Article XX differ only in detail. The EC suggests that **either b or k** be amended to refer to MEAs.

The Commission’s Understanding is longer and more precise in its wording. The fundamental differences are:

- the EC proposal has a lengthy preamble which basically relates to the importance of reconciling trade and environment
- the EC proposal defines MEAs as being aimed at environmental problems “the solution of which requires action at the international level” rather than referring to “the protection of the environment beyond national jurisdictions”. It would therefore include CITES.
- the EC proposal **does not** require MEAs to be managed by a specifically environmental organisation
- the EC proposal **does** specify that the MEA must allow participation by all interested parties (whether there interest lies on the trade or environment side)
- MEA secretariats must inform the WTO of “provisions which envisage the use of trade measures”; there is no reference to “potential” trade measures.
- if a WTO dispute settlement panel is called upon to judge on the legality of a trade measure taken pursuant to an MEA, it should “seize the possibility” of obtaining technical expertise, perhaps in consultation with the MEA secretariat.

The Commission paper therefore deals with some of the criticisms that were levelled against the Committee’s proposal, whilst retaining the essential elements.

ANNEX VI

**SUMMARY OF MIMEOGRAPH BY STEPHEN WOOLCOCK,
LONDON SCHOOL OF ECONOMICS CENTRE FOR RESEARCH ON THE USA****"TRADE AND ECOLABELLING: SUBSIDIARITY AT WORK"**

This paper emanates from the project "Subsidiarity in the Governance of the Global Economy". It gives a detailed description of ecolabelling concepts and of various existing schemes, with useful details of the EC scheme. It then goes on to discuss potential conflicts between ecolabelling and the WTO rules, and how these could be resolved.

"Precedents set in the field of ecolabelling may also have implications for the wider trade and environment debate".

There are three types of ecolabelling scheme:

Type I— external certification (as with the EC scheme)

Type II— the producer's own "green" claims

Type III— the label gives scientific information which consumers themselves assess.

Implications of Private Ecolabelling Schemes

Ecolabelling schemes may be either official, like the EC scheme, or private. Note that the US and Canadian schemes are **private**; which may affect their coverage by any WTO rules. The US Federal Government has yet to develop a clear view on national ecolabelling schemes, but there is a general antipathy in the States towards centralised or public schemes.

The fact that the US scheme is privately run has implications for "green" government purchasing policies: local governments could base their green purchasing policy on ecolabelled products, but some commentators consider that the US constitution precludes governments from delegating duties, which may include ecolabelling schemes, to non-governmental bodies.

The US forestry and paper industry fear that the EC ecolabelling scheme will inhibit market access for US products — they therefore want to impose GATT disciplines on the EU scheme but not on their own (para 3.10).

The EU Scheme

The EU scheme is described in paras 3.13 onward of the paper.

The EU adopts a voluntary, market based approach to ecolabelling, based on the sharing of responsibility between producers, consumers, environmental NGOs, the national authorities and the European Commission: the problem is getting them all to agree! The official bodies involved in developing the scheme are the Commission, national governments, competent bodies (eg UK Ecolabelling Board) and the EU Ecolabelling Forum, which brings together industry, consumer, environmental and trade interests. There is a tendency for the recommendations of the Ecolabelling Forum to be ignored. The Commission makes the final decision on the criteria.

Difficulties and Delays with the EU Scheme

Even after DGXI has agreed on ecolabelling criteria for a particular product group, differences of opinion between DGXI and other Directorates General (notably DGI) can lead to further delay before criteria are adopted by the full Commission. Third countries — such as the US, with its highly vocal forestry and paper industries — can lobby DGI, which might then seek to ensure that decisions on ecolabelling do not run the risk of precipitating trade conflicts.

Various difficulties have emerged with the life cycle analysis (LCA) approach adopted by the EC, notably the unavoidable subjectivity which arises when comparing and quantifying

different kinds of environmental impact.

There has been a disappointingly low level of interest by companies in applying for ecolabels. For example, none of the three major European producers of washing powders has applied for the label. "Unless a critical mass of producers use labels they will not become credible and recognised by consumers".

Opposition to the EU Scheme

The EU scheme has been criticised by the US, Brazil, Malaysia and others who see it as an impediment to trade. They claim that the product groups chosen — eg paper and textiles — are important for non-EU suppliers, and also complain that they are not involved in setting the criteria. It is these concerns that have put ecolabelling on the multilateral (WTO) agenda.

"If the EU, with its relatively developed institutional structures and supranational decision making structures cannot bring about a measure of policy co-ordination, the prospects for international co-operation, such as harmonisation of criteria or mutual recognition of ecolabelling, would appear to be a long way off".

Ecolabelling in Developing Countries

Several developing countries — including Brazil and Thailand — have introduced their own ecolabelling schemes. Their main incentive is to secure export markets, although the schemes are nominally intended to improve the local environment. Because these developing countries have their own schemes, they take a greater interest in multilateral discussions on ecolabelling.

Potential Trade Effects of Ecolabelling Schemes

There is concern among developing country exporters that the types of product selected for ecolabelling are those facing import competition. Exporting countries are also concerned that national ecolabelling schemes set criteria which favour domestic producers and are subjectively targeted at domestic environmental conditions.

"The most important potential impact of ecolabelling on trade is the use of Processes and Production Methods (PPMs) in the definition of criteria" ... "the requirement that producers comply with PPM provisions means the extraterritorial application of PPM requirements".

The cost of applying for and obtaining labels may act as a deterrent to poorer exporters, especially when they are exporting to a variety of different countries, each of which has its own ecolabelling scheme.

Environmental Implications of Applying the WTO Rules to Ecolabelling

"Any trade rules which restrict the ability to adopt life cycle types of environmental measures, would therefore limit the effectiveness of environmental policies. In the debate on ecolabelling and trade, it has been suggested that the existing WTO rules on Technical Barriers to Trade should apply to ecolabelling schemes. **If this were to be done, many ecolabelling schemes would be inconsistent with the WTO, as the WTO measures do not allow for non-product related PPMs**".

Policy options open to the WTO

1. *Do nothing.* The WTO could say that as ecolabelling schemes are voluntary, they are outside the scope of WTO rules. Market forces would eventually result in the dominance of the "best" scheme.
2. *Harmonise schemes and criteria:* this is not feasible as it would be extremely costly and would not allow countries to set criteria according to their own environmental priorities.
3. *Transparency:* make sure all affected producers are informed about the selection of product groups and setting of criteria. (This is the option supported by the European Commission).

4. *Partial harmonisation*: the International Standardisation Organisation (ISO) is working on "agreed understandings on the structure of ecolabelling schemes" and a Global Ecolabelling Network has been established to promote informal co-operation between the various schemes.
5. *Equivalence and mutual recognition*: "an option which can reduce impediments to trade while at the same time leaving each national/ regional scheme with the freedom to determine its own criteria. This is likely to be a longer term option as it would take considerable time and effort..."

The Debate Within the WTO

Those pressing for multilateral negotiations in the WTO are a number of developing and middle income countries, supported by the US and Canada.

The US interest springs from lobbying by industry groups — forestry, paper etc. Their main concern is to get access to the decision making process in the EU so that they can be involved in setting criteria for tissues and other products.

The EU would have preferred to see ecolabelling left off the WTO agenda (NB: The DTI says this is not true) as it wishes to continue the application of Life Cycle Analysis to ecolabelling. From the EU viewpoint, application of the WTO rules to ecolabelling would be unfair as the US and Canada are confident that their (private) schemes will be exempt from any new WTO disciplines. However, the EU has been obliged to accommodate the interests of other WTO members.

Ecolabelling on the WTO Committee on Trade and Environment (CTE) Agenda

Developed countries want the WTO to look at trade measures in Multilateral Environmental Agreements (MEAs). In contrast, the developing countries are cautious about putting trade and environment issues on the WTO agenda, in case it allows for covert protectionism. However, they have agreed that the WTO CTE should look at MEAs if, in return, it also discusses ecolabelling. "Thus while reluctant to enter into discussions on ecolabelling, the EU may have done so in order to facilitate progress on MEAs. Here, therefore is another example of where the multilateral agenda is shaped by horse trading over issues rather than objective requirements for multilateral regimes".

Options for Singapore

1. *Apply the TBT agreement to ecolabels*. This would prohibit the use of PPMs and would therefore be unacceptable to countries who wish to use LCA approaches to voluntary ecolabelling schemes.

2. UNCTAD suggestion: *divide the life cycle in two*. The producer applies their own national criteria to the production part of the cycle, the importer then applies their national criteria to the "use" and "disposal" elements of the life cycle. "This would avoid the problem of extra-territorial "enforcement" of PPMs but would undermine the whole concept of life cycle approaches".

3. *Declare ecolabelling to be compatible with the TBT agreement*. "This would mean that GATT disciplines could be applied to the **application** of the schemes, such as transparency provisions". Developing countries are likely to oppose this option as it applies PPMs extraterritorially. "For developing countries this would be seen as a slippery slope" — they fear that it could open the door to protectionist standards concerning labour as well as environment.

4. Compromise measure — *a code of conduct*, similar to that for standards-setting organisations. This might have to be voluntary so that it can be applied to both private (eg US) and public (eg EU) schemes; but a voluntary scheme is unlikely to be effective. In the event of a dispute, the WTO would have to resort to an *ad hoc* approach. Steve Woolcock's view is that a code would be "a mere figleaf to show that something had been done".

ANNEX VII

LIST OF CASE STUDIES

Source	Case	Point made
B&Q, "How Green is My Front Door?"	Bainings project	Positive "win-win" private sector initiative
WWF: "Agriculture in the Uruguay Round"	Intensive agriculture in EU & US	Agricultural subsidies — negative impact
WWF, <i>op cit</i>	Philippines — rice	More cheap imports available, poverty for local farmers
WWF, <i>op cit</i>	Mexico — maize	Loss of sustainable cultivation through trade liberalisation (NAFTA)
WWF: "South-North Terms of Trade, Environmental Protection and Sustainable Development"	Philippines — prawns	Commercial export-oriented agriculture destroying local environment
Ev p34 (DoE)	CITES and ivory trade	Support for MEAs — CITES members not bringing disputes to the WTO
App 2 (CSERGE)	Summaries of various GATT disputes	
App 6 (Duncan Brack)	Korea — delayed accession to Montreal Protocol	Effectiveness of trade measures in MEAs
App 6 (Duncan Brack)	Illegal trade in CFCs — problems in the US	Need for enforcement action, financial assistance, etc
RSPCA (Ev not printed)	Leghold trap dispute	Conflict between WTO and animal welfare legislation
Friends of the Earth (FoE) Scotland (Ev not printed)	Scottish superquarry	International trade in aggregates harming local environment
Ev p47 (Oxfam)	Philippines — shrimp farming	Unsustainable export-related production
Ev p48 (Oxfam)	Caribbean — bananas	GATT preventing EU from offering preferential treatment to certain developing countries
Ev p49 (Oxfam)	Chile — pesticide use in fruit farming	Example of "pollution haven"
Ev p49 (Oxfam)	Mexico — Maquiladora region	Lax enforcement attracting industry
Ev p117 (FoE)	Hidrovia waterway	Mercosur creating trade, waterway construction damaging environment
Ev p117 (FoE)	Soybean cultivation in Uruguay	Social and environmental impacts of export crop
Ev p118 (FoE)	Bangladesh — frogs' legs	Destructive effect of trade
H Linnemann and HLM Kox, "ICREAs as an Instrument for Sustainable Development"	Potential ICREAs for cotton, copper, cocoa	Resource transfer mechanism
App 10 (World Bank)	Short paras on Philippines, Jamaica, Peru, Sierra Leone	Lending linked to environmental improvement
App 7 (RSPB)	EU beef export subsidies. Cheap EU beef leading to environmental degradation in Argentina	Negative effect of agricultural subsidies
ICI: "Environmental Performance 1994"	Clean factories in the Far East	Direct investment overseas leading to environmental improvements
Professor R G Williamson (Ev not printed)	Fur trade	Environmental regulation overseas damaging indigenous way of life
Body Shop (Ev not printed)	Shell — Nigeria	Destructive effects of transnational corporations (TNCs) in developing countries
Hari Osofsky (Box 6)	Texaco — Ecuador	Destructive effects of TNCs in developing countries

Ev p168 (Paper Federation of Great Britain)	EU ecolabel for paper	Alleged discrimination against British producers
Ev p172 (Paper Federation of Great Britain)	EU carbon tax	Environmental regulation and “political drag”
Ev p173, QQ656-668 (Paper Federation of Great Britain)	Objections to Forest Stewardship Council scheme	Industry’s claim that voluntary environmental labelling restricts trade
Marks & Spencer (Ev not printed)	Runner beans in Kenya	Multinational imposing unnatural conditions on third world farmers — but without undue harm
Foundation for International Environmental Law and Development (FIELD) report	Venezuela gasoil case	Example of dispute
Kristin Dawkins, “Ecolabelling: Consumers’ Right to Know or Restrictive Business Practice?”	Organic foods dispute	Failure to recognise standards
Kristin Dawkins, <i>op cit</i>	Austrian timber	GATT stopped sustainable timber policy
Public Citizen’s Global Trade Watch, “NAFTA’s Broken Promises: the Border Betrayed”	Pollution in Mexico	Alleged failure of NAFTA side agreement
Steve Charnovitz, “The WTO Panel Decision on US Clean Air Act Regulations”	US Clean Air Act: Venezuela gasoil dispute	Example of dispute
Paul Ekins: “Harnessing Trade to Sustainable Development”	Tuna/dolphin dispute	Example of dispute
Ev p119 (FoE)	Bovine hormone dispute	Example of dispute — consumer considerations
Sophia Wigzell, “Thailand and Ecolabelling”	Thailand’s ecolabel	Difficulties confronted (and poor standard of regulation) for developing country trying to sell to OECD market
World Business Council for Sustainable Development (WBCSD): “Trade and Environment, a Business Perspective”	Tioxide manufacture	Complexity of applying PPMs
WBCSD, <i>op cit</i>	Noranda Inc., Canada (paper with recycled content)	Canada’s difficulty in complying with recycled content regulation
WBCSD, <i>op cit</i>	Avenor Ltd — chlorine bleached paper	Company improving performance in response to customer demand
WBCSD, <i>op cit</i>	General Electric and Tungsram (Hungary)	Direct investment improving environmental performance in Eastern Europe
WBCSD, <i>op cit</i>	Waste Management International	Investing to high environmental standards in Indonesia
WBCSD, <i>op cit</i>	Procter and Gamble, Mexico	Multinational operating to high international standards
UNCTAD, “Environmental Policies, Trade and Competitiveness”	Argentinian paper industry	Freer trade has benefitted some small companies

EXTRACT FROM MINUTES OF PROCEEDINGS RELATING TO DECLARATIONS OF INTEREST

WEDNESDAY 31 JANUARY 1996

Mr Harold Elletson declared a pecuniary interest in relation to the Committee's inquiry into World Trade and the Environment as a consultant to Rothmans International and BP International on aspects of their business in the Former Soviet Union.

PROCEEDINGS OF THE COMMITTEE RELATING TO CONSIDERATION OF THE REPORT

MONDAY 17 JUNE 1996

Members present:

Mr Andrew F Bennett, in the Chair.

Mr Geoffrey Clifton-Brown
Mr Den Dover
Mr Neil Gerrard
Helen Jackson
Mr Bill Olnier

Sir Irvine Patnick
Mr Michael Stephen
Mr Matthew Taylor
Mr Roy Thomason

The Committee deliberated.

Draft Report (World Trade and the Environment), proposed by the Chairman, brought up and read.

Ordered, That the Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 3 read and agreed to.

Paragraph 4 read, amended and agreed to.

Paragraphs 5 to 18 read and agreed to.

Paragraph 19 read, amended and agreed to.

Paragraphs 20 to 33 read and agreed to.

Paragraph 34 read, amended and agreed to.

Paragraphs 35 and 36 read and agreed to.

Paragraph 37 read, amended and agreed to.

Paragraphs 38 and 39 read and agreed to.

Paragraph 40 read, amended and agreed to.

Paragraphs 41 to 50 read and agreed to.

Paragraph 51 read, amended and agreed to.

Paragraphs 52 to 63 read and agreed to.

Paragraph 64 read, amended and agreed to.

Paragraph 65 read and agreed to.

Paragraph 66 read, amended and agreed to.

Paragraphs 67 to 69 read and agreed to.

Paragraph 70 read, amended and agreed to.

Paragraph 71 read and agreed to.

Paragraphs 72 and 73 read, amended and agreed to.

Paragraph 74 read and agreed to.

Paragraph 75 read, amended and agreed to.

Paragraphs 76 to 80 read and agreed to.

Paragraph 81 read, amended and agreed to.

Paragraphs 82 to 89 read and agreed to.

Paragraphs 90 and 91 read, amended and agreed to.

Paragraphs 92 to 94 read and agreed to.

Paragraph 95 read, amended and agreed to.

Paragraph 96 read and agreed to.

Paragraph 97 read, amended and agreed to.

Paragraphs 98 and 99 read and agreed to.

Paragraph 100 read, amended and agreed to.

Paragraphs 101 to 117 read and agreed to.

Paragraphs 118 and 119 read, amended and agreed to.

Paragraphs 120 to 123 read and agreed to.

Paragraph 124 read, amended and agreed to.

Paragraphs 125 to 137 read and agreed to.

Paragraph 138 read, amended and agreed to.

Paragraphs 139 to 141 read and agreed to.

Paragraph 142 read, amended and agreed to.

Paragraphs 143 to 145 read and agreed to.

Paragraphs 146 to 148 read, amended and agreed to.

Paragraphs 149 to 159 read and agreed to.

Paragraph 160 read, amended and agreed to.

Paragraphs 161 and 162 read and agreed to.

Paragraphs 163 to 166 read, amended and agreed to.

Paragraph 167 read and agreed to.

Paragraph 168 read, amended and agreed to.

Paragraphs 169 to 171 read and agreed to.

Paragraph 172 read, amended and agreed to.

Paragraphs 173 to 179 read and agreed to.

Paragraphs 180 to 182 read, amended and agreed to.

Paragraphs 183 to 186 read and agreed to.

Paragraph 187 read, amended and agreed to.

Paragraphs 188 to 191 read and agreed to.

Paragraphs 192 and 193 read, amended and agreed to.

Paragraph 194 read and agreed to.

Paragraph 195 read, amended and agreed to.

Paragraphs 196 to 199 read and agreed to.

Paragraph 200 read, amended and agreed to.

Paragraphs 201 and 202 read and agreed to.

Paragraphs 203 to 205 read, amended and agreed to.

Paragraphs 206 and 207 read and agreed to.

Paragraphs 208 and 209 read, amended and agreed to.

Paragraphs 210 to 213 read and agreed to.

Paragraph 214 read, amended and agreed to.

Paragraphs 215 to 222 read and agreed to.

Paragraphs 223 and 224 read, amended and agreed to.

Paragraph 225 read and agreed to.

Paragraph 226 read, amended and agreed to.

Paragraphs 227 to 232 read and agreed to.

Paragraph 233 read, amended and agreed to.

Paragraphs 234 to 238 read and agreed to.

Paragraph 239 read, amended and agreed to.

Paragraphs 240 and 241 read and agreed to.

Paragraph 242 read, amended and agreed to.

Paragraphs 243 to 247 read and agreed to.

Paragraph 248 read, amended and agreed to.

Paragraphs 249 to 262 read and agreed to.

Paragraph 263 read, amended and agreed to.

Paragraphs 264 to 266 read and agreed to.

Paragraph 267 read, amended and agreed to.

Paragraphs 268 to 273 read and agreed to.

Annexes I to VII agreed to.

Resolved, That the Report, as amended, be the Fourth Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Several papers were ordered to be appended to the Minutes of Evidence.

Ordered, That the Appendices to the Minutes of Evidence be reported to the House—(The Chairman.)

[Adjourned till Wednesday 19th June 1996 at a quarter to 3 o'clock.]

LIST OF WITNESSES

Page

Wednesday 17 January 1996

DEPARTMENT OF THE ENVIRONMENT

Dr David Fisk, Ms Bridget Campbell 21

DEPARTMENT OF TRADE AND INDUSTRY

Mr Jonathan Startup 21

Wednesday 31 January 1996

WORLD WIDE FUND FOR NATURE

Mr Charles Arden-Clarke 52

OXFAM

Ms Caroline Lequesne 52

Wednesday 14 February 1996

WORLD TRADE ORGANISATION

Mr Richard Eglin 74

UNITED NATIONS ENVIRONMENT PROGRAMME

Mr Hans Alders 91

Wednesday 6 March 1996

YALE CENTER FOR ENVIRONMENTAL LAW AND POLICY

Mr Daniel C Esty 103

FRIENDS OF THE EARTH

Ms Ronnie Hall and Mr Duncan McLaren 128

Wednesday 13 March 1996

ORGANISATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Mr Jacques de Miramon and Mr Michel Potier 136

EUROPEAN COMMISSION

Mrs Margaret Brusasco-Mackenzie, Mr Julio Garcia-Burgues and
Mr Alessandro Paolicchi 144

Wednesday 20 March 1996

IMPERIAL CHEMICAL INDUSTRIES PLC

Dr Jim Whiston, Dr Michael Wright and Dr David Wakeford MBE 156

PAPER FEDERATION OF GREAT BRITAIN

Mr Brian Bateman, Mr David Gillett and Mr Michael Stone 174

Wednesday 27 March 1996

BRAZILIAN EMBASSY

His Excellency Sr Rubens Barbosa and Mr Bruno Bath 183

BRITISH IMPORTERS' ASSOCIATION

Mr Christopher Starns 193

CONSUMERS' ASSOCIATION

Mr Phillip Evans and Ms Barbara Harvey 203

Wednesday 15 May 1996

DEPARTMENT OF THE ENVIRONMENT

Rt Hon John Gummer MP and Ms Bridget Campbell 214

DEPARTMENT OF TRADE AND INDUSTRY

Mr Anthony Nelson MP and Mr Charles Bridge 214

LIST OF MEMORANDA INCLUDED IN THE MINUTES OF EVIDENCE

Memoranda or supplementary Memoranda submitted by:

		<i>Page</i>
1.	Department of the Environment	1
2.	First Supplementary Memorandum	34
3.	Second Supplementary Memorandum	208
4.	Third Supplementary Memorandum	230
5.	World Wide Fund for Nature	38
6.	Oxfam	42
7.	World Trade Organisation	67
8.	United Nations Environment Programme	86
9.	Mr Daniel C Esty	100
10.	Friends of the Earth	114
11.	Imperial Chemical Industries Plc	153
12.	Supplementary Memorandum	166
13.	Paper Federation of Great Britain	168
14.	British Importers' Association	190
15.	Consumers' Association	198

LIST OF APPENDICES TO THE MINUTES OF EVIDENCE

Memoranda or supplementary Memoranda submitted by:

	<i>Page</i>
1. Canadian High Commission	233
2. Centre for Social and Economic Research on the Global Environment, University of East Anglia and University College London	240
3. Forestry Commission	245
4. Mr Colin Hines, Co-Director of the International Forum on Globalisation—Europe	247
5. Mr Nick Johnstone, Environmental Economics Programme, International Institute for Environment and Development	248
6. Mr Duncan Brack, Senior Research Fellow, Royal Institute of International Affairs	258
7. Royal Society for the Protection of Birds	268
8. SAFE Alliance	278
9. UNCTAD Secretariat	283
10. World Bank	291

UNPUBLISHED MEMORANDA

Additional memoranda have been received from the following organisations and individuals and have been reported to the House, but to save printing costs they have not been printed and copies have been placed in the House of Commons Library where they may be inspected by Members. Other copies are in the Record Office, House of Lords, and are available to the public for inspection. Requests for inspection should be addressed to the Record Office, House of Lords, London SW1 (telephone 0171 219 3074). Hours of inspection are from 9.30am to 5.00pm on Mondays to Fridays.

Memoranda or supplementary Memoranda submitted by:

Apikan Indigenous Network
Aviation Environment Federation
Body Shop
Duncan Brack, Royal Institute of International Affairs
British Fur Trade Association
British Importers' Association
British Iron and Steel Producers' Association
British Petroleum plc
Canadian High Commission
Steve Charnovitz
Confederation of British Industry
Consumers' Association
Country Landowners' Association
Environmental Protection Clinic, Yale School of Forestry and Environmental Studies
Daniel C Esty
Friends of the Earth
Friends of the Earth (Scotland)
HM Customs & Excise
Imperial Chemical Industries plc
International Monetary Fund
Marks & Spencer
Mid Northumberland Green Party
Organisation for Economic Co-operation and Development
Parliamentary Office of Science and Technology
Political Animal Lobby
Royal Society for the Prevention of Cruelty to Animals
Royal Society for the Protection of Birds
RTZ Group
Timber Growers' Association
Thailand Environment Institute
United Nations Conference on Trade and Development
United Nations Environment Programme
Weardale Green Party
Dr Robert G Williamson, University of Saskatchewan
World Trade Organisation
World Wide Fund for Nature

MEMORANDUM

Additional material has been received from the following sources: ...

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GLOSSARY

APEC	Asia Pacific Economic Co-operation Forum
ASEAN	Association of South-East Asian Nations
CITES	Convention on International Trade in Endangered Species
DoE	Department of the Environment
DTI	Department of Trade and Industry
EU	European Union
GATT	General Agreement on Tariffs and Trade
GEF	Global Environment Facility
GSP	Generalised System of Preferences
ICREA	International Commodity-Related Environmental Agreement
IMF	International Monetary Fund
MEA	Multilateral Environmental Agreement
MFN	Most Favoured Nation
NAFTA	North American Free Trade Agreement
NGO	Non-Governmental Organisation
OECD	Organisation for Economic Co-operation and Development
PPMs	Processes and Production Methods
UNCSD	United Nations Commission on Sustainable Development
UNCTAD	United Nations Conference on Trade and Development
UNEP	United Nations Environment Programme
WBCSD	World Business Council for Sustainable Development
WTO	World Trade Organisation
WTOCTE	World Trade Organisation Committee on Trade and Environment
WWF	World Wide Fund for Nature

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